telenor

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25 April 2017

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New Delhi 110002

Subject: Inputs on "Ease of doing Telecom Business in India"

Dear Sir,

This is with reference to TRAI note dated 14.03.2017 on above mentioned subject.

At the outset, Telenor (India) welcomes TRAI initiative to seek industry inputs for simplifying various existing regulatory processes in line with ongoing government efforts towards ease of doing business in India. In this regard, please find enclosed our inputs as an annexure to this letter.

We hope that the TRAI will find our response useful and consider our inputs while finalising the recommendations on this subject.

Thanking you,

Yours sincerely,
For **Telenor (India) Communications Pvt. Limited**
(Erstwhile Telewings Communications Services Private Limited)

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Telenor (India) Inputs on "Ease of Doing Telecom Business in India"

At the outset, we appreciate efforts of the Government and their focus towards ease of doing business by reviewing and simplifying various business processes creating enabling environment for telecom sector. In this regard, TRAI initiative to identify various processes/ issues in the existing licensing and regulatory framework which entail simplification coupled with the focus on cost efficiency is a welcome step at the juncture when telecom industry is financially stressed.

Why process simplification required for ease of doing telecom business

The traditional framework is not suited to do telecom business in the rapidly changing business and technology environment. Therefore, it is important to reflect upon the trends (as below) which necessitate process simplification and reforms in existing framework before highlighting various issues / suggestions for undertaking reforms.

- In view of technological advances, the telecom sector has been transformed to the global business from local business. TSPs business focus is shifting from offering basic communication services to digital / adjacent services and expanding in to new areas of financial services, M2M, Digital Payments, Classifieds, education, e-commerce, Health, Agriculture etc. Internet companies and OTT Communication service providers are making inroads into the domain of Telecom service providers (TSPs) thereby impacting the telecom business significantly - traditional voice / SMS services are getting blurred and replacing with the IP based interactive messaging and voice calls riding on data services. The new and emerging areas like mobile advertising, applications & content, big data analytics, IOT etc. are yet to be addressed.

  TSPs being a local business provider cannot compete with global internet companies under the existing regulatory and licensing framework which is more than two decade old and most suited for traditional telecom business. This framework is tying the hands of the Indian telecom service providers and restricting them to innovate and offer more efficient products and services to the end consumers. Such limitation is not only depriving the consumers for better services but also harming the health of telecom sector and necessitates reforms under ease of doing business to ensure level playing field among all communication service providers.

- The telecom industry is at the centre of the digitization agenda of the government. Be it smart cities, rural broadband, cash less economy or financial inclusion, everything now needs a telecom network to be carried to the masses. Mobile technology is increasingly becoming the preferred means of delivering variety of services for the Government that empower citizens living in hard-to-reach communities and it is widely recognised that mobile broadband offers a unique opportunity to accelerate social and economic growth and bridge the digital divide.

- Mobile network is a key for Digital India success - India has set out its vision to transform into a digitally empowered society and knowledge economy by launching 'Digital India' initiative that envisages digitally empowering 1.25 billion Indians with an array of Internet & mobile aided services. With over 1 billion mobile connections, wireless networks are powering the 'Digital India' projects to cover the entire population of the country under the JAM trinity.

- Mobile Phone is an enabler for less cash economy - Post demonetisation, Government focus has shifted on making India a less cash economy and made several remarkable efforts in developing the mobile based digital payment ecosystem. Mobile phone acts as an enabler for all alternative payment platforms.

  Recently, DoT has allowed mobile users to purchase digital contents through their mobile phones and payment for such contents can be made using their mobile prepaid account balance or postpaid bill payment methodology with a maximum value not exceeding to Rs. 20,000/- each time. This is a significant reform in strengthening the digital payments ecosystem and same should be extended to enable mobile phones to operate as e-wallet for making small value daily transactions to boost digital payments for mass market.

- Mobile services have made significant contributions to economic growth, job creation, revenue generation and GDP. As per recent estimate of ICRIER, determining the nation-wide impact of increase in telecom penetration on GDP, ICRIER estimated that for every 10% increase mobile penetration delivers on average a 1.5% increase in rate of GDP growth and for the Internet, it was found that a 10% increase in Internet subscribers resulted in a 2.4% increase in rate of growth of state per capita income.

- Data networks and increasing smart phones penetration has build the ecosystem (devices, applications, services) which has boosted the data appetite of consumers. Online services such as e-health, e-education, e-governance and banking are expected to ride on the success of data growth.

- Telecom is a backbone for M2M and IoT: The M2M market is estimated to generate ~50[1] bn USD of revenue by 2021 from the entire value chain (incl. applications, device, connectivity & services) covering various sectors – Business, Automotive, Cities, Consumer electronics, energy, health, home and Industry. The widening scope of M2M in India has been seen in sectors like healthcare, education, auto, agriculture, security, surveillance, etc.

To support, the above changing landscape of telecom market, it is important to carry out necessary reforms in existing framework under ease of doing business.

[1] Machina Research IOT forecast – November 2016

We believe that the outcome of this consultation in terms of policy reforms will strengthen the existing licensing framework in order to maintain healthy competition and to explore/ get more revenue opportunities.

<u>Process/ Issue wise comments</u>

Unified License

- **Acquiring Unified License** : No comments

- **Compliance of various general / commercial / Technical / financial / operating / conditions**
  - Currently, licensee is mandated to submit various compliances on the following license conditions during the year
    - Security compliances (once in a year)
    - SP Codes compliance (once in a year)
    - FDI compliances (twice in a year)
    - Short Codes compliance (once in a year)
    - Software upgradation compliance (twice in a month)

  - In line with the focus of Government "Minimum Government and Maximum Governance", self certification and sample testing regime should be institutionalised to monitor the compliances / conducting audits. The above compliances can be aligned to a single date, once in a year covering various licensing conditions. TRAI may also recommend online interface to submit the single compliance.

  - Similarly, TSPs are submitting compliances to various TRAI Directions issued from time to time throughout the year. It is suggested to consolidate all these compliances and certifications together into a single compliance document and should be submitted online through TRAI MIS portal once in a year.

- **Adding new authorisations in the UL**: No comments

- **Surrendering any authorisation within the scope of UL or surrender of UL**: There should be a time limit defined for release of bank guarantees and issuance of NOC.

- **Compliance of roll-out obligations**
  - Basis TRAI recommendations, DoT has recently simplified the existing rollout obligation conditions like self certification of Maps, 10% samples testing & 80% reduction in test fee, Rollout obligation can be fulfilled using any technology in any band etc.

- All TSPs are committed to meet the Rollout obligation as specified in the license / NIA terms & conditions and either have completed or in different stages. Thus, there is no need for any further rollout obligation for the existing TSPs. Moreover, in the scenario where spectrum is auctioned at market determined price, **there should not be any further requirement of rollout obligation** as the successful bidder will rollout its network driven by market forces.

- **Testing Fee**: DoT vide its circular dated 18 August 2016 has notified that TSP is require to submit self certificate of required number of DHQs/ BHQs/ SDCAs along with the prescribed test fee for the fulfillment of rollout obligation. The TERM cell will carry out sample testing of 10% of such self certified DHQs/ BHQs/ SDCAs. Further, DoT vide its circular dated 26 September 2016 has notified reduction in test fee (covering both BTS and MSC testing) for rollout obligation by 80 percent. This has given big relief for TSPs to carry out the rollout obligation testing for phase 3, 4 & 5. However, there is still an anomaly which needs Authority attention. The prescribed test fee being charged for all the self certified DHQs/ BHQs/ SDCAs whereas testing is conducted only for 10% of total self certified DHQs/ BHQs/ SDCAs. Similarly, MSC test fee which is a major portion of total test fee is being charged for all the towns associated with that particular MSC whereas it should be charged once for all the towns served by that particular MSC. This implies that duplicate payment has been made for single MSC, for each connected town.

  It is requested TRAI to examine this issue in detail and recommend DoT to notify the necessary changes in the existing instructions as follows:

  - The prescribed test fee should only be charged for DHQs/ BHQs/ SDCAs selected by TERM cell for sample testing.

  - MSC test fee should only be charged once for all the towns served by common MSC, which is being tested by TERM Cell under sample testing.

• **Payment of Licence Fee, FBG/PBG and the release of bank guarantee, whenever due**

  - TRAI in its recommendation in AGR matter during January 2015 recommended *that steps should be immediately taken by the DoT to introduce* ***a system of LfDS*** *w.e.f. 1st April 2015 and* ***develop an e-portal*** *for submission of LF and SUC* ***by 1st April 2016.*** It is suggested that TRAI should reiterate its recommendation to implement LfDS by mid-2017.

  - The present UL does not have a provision of release of PBGs upon completion of five (5) stages of rollout. In the absence of this, the initial PBG of Rs 35 Crores (Rs 7 Crores for each of the five stages) per service area remain with the licensor till the end of sixth year. As a natural corollary as the TSP accomplishes the milestone for a particular year, the PBG should be reduced by Rs 7 Crores.

- **Allotment of Backhaul Spectrum**

  - The availability of backhaul spectrum is a prerequisite to provide connectivity between various network elements. Hence, timely allotment of backhaul spectrum is essential for the launch of access services and completion of rollout obligation.

    Unified License (UL) condition 42.7 and NIA clause 2.2 - Allotment of spectrum for individual point-to-point fixed links i.e. Microwave Backhaul Spectrum shall be subject to separate application to WPC Wing and the allotment of the same is not linked to the compliance of roll out obligations where prescribed. The allotment of backhaul spectrum is subject to availability, usual processes and terms and conditions. Separate charges as prescribed from time to time shall be payable for microwave backhaul spectrum.

    NIA dt 09 Jan 2015 Clause 3.6.1 (Viii) and NIA dt. 08 Aug 2017 Clause 2.2 - The allotment of spectrum for individual point-to-point fixed links i.e. Microwave Backhaul Spectrum would be subject to separate application and the allotment of the same is not linked to the compliance of rollout obligations. For compliance of the rollout obligations, the successful bidder has to make its own arrangements for transmission media required for connecting the network equipment etc. The allotment of backhaul spectrum is subject to the usual processes, term and conditions and applicable charges.

  - TRAI vide its recommendation dated 29 August 2014 had recommended to DoT that assignment of both access spectrum and MWA carriers should be done within one month from the date of TSP makes the payment for access spectrum. TRAI also recommended that no auction is required for Backhaul spectrum and should continue to be done on an administrative basis and AGR based spectrum charging mechanism for MWA carriers should be continued.

  - TRAI should reiterate its earlier recommendations to DoT that Backhaul spectrum should be allocated along with Access Spectrum and minimum charges should be taken to recover administrative cost.

- **Technology agnostic services**

  - In the current licensing framework, Licensee is not allowed to offer communication services by hosting network elements outside the geographical boundaries of the Country.

  - There should be a flexibility to offer communication services using any technology and/or platform (Cloud Computing, SDN, NFV etc) in order achieve higher operational efficiency provided same should be able to demonstrate Lawful Interception capability.

- **Big data analytics**

  - Presently, licensee has not allowed to share/ transfer user information to any person / place outside India. In the today's context consumer requirements is shifting from standalone traditional voice services to data services coupled with rich content and applications.

  - Therefore, to serve the consumers better and more efficiently, TSPs should have freedom for analysing and use of generic customer details like MSISDN, type of device, kind of applications installed / used, usage behaviour, recharge pattern in order to offer more relevant and customised services to the different customer segments without obtaining individual consumer consent. TSPs may notify such data analytics disclosures on their website for the information to consumers.

Spectrum Allotment and use

- **Assignment of spectrum to the successful bidder by WPC**: The NIA dated 8th August 2016 under clause 7.1 has made a provision to issue frequency allotment letter within 30 calendar days.

  NIA dated 08 Aug 2017, clause 7.1.1 - The WPC Wing of DoT shall issue a Frequency Assignment Letter specifying the frequencies to the successful bidder within thirty (30) calendar days from the date of receipt of upfront payment in case of deferred payment option and the date of receipt of full payment in case of full upfront payment option.

  It is suggested that this provision should be continued for all future assignments and moreover other supported spectrum (like MW Access and Backbone) should also be given within 7 days from the date of assignment of access spectrum.

- **SACFA Clearance Process**
  The simplification of SACFA procedure has been recently undertaken by WPC. However, further reforms are required for optimum operational efficiency.

  - **Abolish physical copy submission and DD requirement**s: After applying online SACFA application, TSPs are still need to submit the physical copy of the application along with few documents. TSPs are required to pay this fee through physical demand draft along with the SACFA application. It is suggested that the requirement of submission of physical application should be completed done away and provision should be made on the WPC website to accept the application fee online along with SACFA application. This procedural change will help in rollout of network.

- **Reduction in Application Registration Fee for SACFA Citing Cases**: Effective 01 June 2007, WPC mandated to pay Rs 1000/- per ID as SACFA citing application registration fee for all category of sites (separately for GSM/ MW) to process the applications. TSPs are also mandated to apply for every additional antenna being installed on existing site under "additional category" and pay Rs 1000/- for the same. It is suggested that in line with earlier recommendations on reduction in 10% samples testing & 80% reduction in test fee for rollout obligation in BHQs, TRAI should recommend 90% reduction in SACFA application fee / per ID or alternatively, charge Rs 1000/- basis the per 100 application lot instead of each application which will be sufficient to meet administrative charges for website maintenance.

- **Spectrum Trading approval process such as settlement of dues etc.**: The spectrum trading guideline is seen as a positive step towards optimal utilization of the scarce resources and has already triggered few deals in past few months. However, there are few flaws that need to be corrected.

  - **Dual levy of revenue share:** The principal amount received from the trading deal has been made a part of AGR (adjusted gross revenue) for the purpose of levying license fee and SUC. Consequently, seller has to pay LF (8%) and SUC (5%) on the traded value. The buyer is mandated to pay 1% of the value of spectrum traded to the Government as transaction fee. By imposing license Fees and SUC on the transaction itself, the effective transaction cost rises to 14% of the traded value. This means tax on the principal as well as the gains. It is a dual levy as same is being paid to the government twice, first by the seller because the sale proceeds become part of its AGR and then by the buyer through annual levy of license fee and SUC on revenue earned through the traded spectrum. This dual levy of revenue share anomaly should be corrected and at-least the principal amount should not be included as part of the AGR.

  - **Recovery of past dues:** As per the guidelines, Seller needs to pay all the dues prior to trading date and post trading date it will be the responsibility of the buyer. Further, if any demand related to seller is stayed by courts, it will be subject to the court outcome. If any matter is pending in court, the interest of Licensor should be secured. Government will have the right to claim any recoverable post trading date which was not known at the time of trading from the buyer or seller, jointly/severally. There is need to bring more transparency to minimise the future uncertainty so that at the time trading agreement, both the parties will be fully aware of their responsibilities/ obligations/liabilities towards payment of past dues / charges to be paid to the Government at a later date.

- **Spectrum Sharing process:**

- Any spectrum sharing pact between TSPs attracts **additional SUC of 0.5%** on the AGR of both the parties. This is a regressive step and goes against basic principles of resource sharing. The government will anyway get more in case revenue of the operator grows due to spectrum sharing. This clause is one of the reasons why till now we have not seen a single sharing agreement among the operators. If this anomaly can be removed, spectrum sharing will take off and we will see improved efficiencies in the sector.

- **Inter-band sharing** is currently not allowed. TRAI may initiate a consultation with all stakeholder to do necessary changes in this clause in order to allow inter band spectrum sharing for the spectrum acquired through same manner.

- **Liberalisation of spectrum process**: No comments

Provision of telecom services using Satellite media

- **Assignment of spectrum to the successful bidder by WPC** – No comments

- **Clearances from INSAT Network Operations Control Center (NOCC)** – No comments

- **Obtaining SACFA clearance and clearance from other authorities**

  - Presently, Licensee is mandated to apply SACFA approval for each and every site (separate for each technology) as well as for every additional antenna being added on existing site/ tower which has already been approved. Obtaining SACFA clearances for each and every site deployed in the network should be done away with. SACFA approval need to be obtained only for those sites which are less than 3 KMs from the nearest Airport and for the sites having height more than 40 ms between 3-10 Kms from the nearest airport. The approval for such sites should be given within 30 days from the date of filing the application in online system.

  - For rest of sites, only intimation (in the form of self certification) to be given to SACFA Secretariat for sites less than 40 ms height & distance more than 3 km from the nearest Airport and for the sites which are more than 40 ms in height but beyond 10 Kms from the nearest Airport. Post abolishment of obtaining Wireless operating license requirement, the validity of SACFA clearances should also be co-terminus with the validity of the License agreement.

  - In order to make SACFA process more efficient, TSPs should be allowed to make the site operational immediately after the receipt of WPC acceptance number. In case of any issue(s) observed by SACFA secretariat prior to providing final SACFA clearance, such site can be switched-off immediately and can be made operational only post receipt of final SACFA clearance.

Merger and Acquisition Policy

- The lock-in conditions in the license are linked with the rollout obligation which needs to be fulfilled prior to any sale of equity by an operator. When spectrum trading guidelines were notified, a provision was made to transfer the unfulfilled portion of the rollout obligation from the seller to the buyer in case of full spectrum trade.
- A similar provision is should be incorporated in the M&A guidelines and thereby making it inconsistent with other guidelines. Such parity in M&A policy will facilitate effective market consolidation in the sector.

Taxes and levies

Rationalisation of taxes is one of the most important reforms required to boost the financial health of the telecom sector today. Related issues are highlighted as follows:

- **Rationalization of USO levy**
  - TSPs are paying 5% of their AGR towards USO levy under licensing obligation since introduction of revenue sharing regime for rural coverage.
  - Data points: (a) Rural Tele density has increased to 53.27% in December 2016 from 1.5% in 2002-03 (b) Presently around 56,000 villages don't have mobile coverage out of total 640,000 villages. Government is working to provide coverage in these areas through USOF financial assistance. (c) Approx 60% of USO levy remains unutilised - out of the Rs.80822 crores collected for the USOF between 2002-03 to 2016-17, Rs.47,924.76 crore remained unutilized as on 28 Feb' 2017.

  Recommendations:

  - USO fee should not be construed as levy, rather it is contribution made by TSPs.
  - Existing amount available in USO fund is sufficient to connect the balance unconnected villages.
  - USO levy is immediately to be brought down to 3%, with an ultimate objective of doing away with the levy in next 2-3 years in line with TRAI recommendations.

- **Service tax on Spectrum auctions**
  - India is the only country in the world that imposes a service tax on spectrum auctions. This tax comes as double whammy as spectrum brought auctions come at a very high price. TSPs are required to pay service tax over the bid price also. Even if it comes under the purview of CENVAT (Central Value Added Tax), it puts severe constraints on the cash flows and most of the players are forced to

carry this on their balance sheet. Moreover, service tax also applies on the license fee and spectrum usage charges.

- There is an urgent need to do away with service tax on spectrum purchased in auctions. Abolishing this tax will not only make telecom services more affordable, it will also ease out some financial pressure on the operators.

- **Flat Spectrum Usage Charges (SUC):** SUC should be imposed at flat rate across all spectrum bands / technology used by the Service provider with a glide path for downward revision only to recover administrative cost and should be equally applicable to all service providers. This anomaly should be addressed by abolishing weighted average SUC with flat SUC regime.

OTT

- Regulatory parity for all communication services (Licensed TSP and OTT). This equality can be achieved by implementing "**Same Service Same Rule**" and the very minimum bring all communication service providers (L-TSP and OTT) under uniform obligations for consumer protection, lawful intercept, traceability of subscriber at all times, access to emergency services, data protection, retention and privacy, service security, reliability, emergency services and local taxes.

- Horizontal regulations should be prescribed for all Communication Service Providers (TSPs and OTTs) offering voice, messaging & video services under uniform obligations. Beyond that it should be best left to the market force.

- TRAI should expedite consultation paper process and issue recommendations at the earliest.

Telecom is a critical Infrastructure

- Telecom services are essential services and considered as critical communication infrastructure. Therefore, the telecom towers are required to be operational 24x7 to provide uninterrupted quality services to the consumers for which continuous power supply is required. Telecom industry faces issues because of uncertain and no or limited electricity available in rural as well as urban parts of India. The energy cost accounts for a substantial amount of total network operations cost for TSPs.

- It is recommended that Infrastructure status given to telecom sector should be accompanied by associated benefits such as assured grid power at Industrial rate.

Reporting Requirements – DoT & TRAI

- We appreciate TRAI efforts to launch online reporting portal wherein TSPs are submitting all the required reports and tariffs online through MIS portal. However, TSPs are also required to submit the same report/ tariff which were submitted online through a physical copy and / or email. Such actions are making duplicity of TSPs efforts and wastage of resources.

- TSPs are also submitted various reports/ information/ adhoc data to DoT HQs/ TERM Cells / CCAs at different point of time during the year. These reports are large in number (approx. 70-80 numbers) and being submitted in physical copy and / or through email. It is suggested that all these reporting requirements should be made online through a dedicated reporting portal.
- The regulatory reporting requirement should be minimal and should be done through online portal only. With the help of online reporting, various dashboards can also be made providing insight of data submitted by service providers.

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