

**Counter Comments to TRAI CP on
“The Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023”**

Executive Summary

Airtel thanks the Authority for the opportunity to provide its counter comments to responses received on the consultation paper (“CP”) “The Framework for Service Authorisations to be Granted Under the Telecommunications Act, 2023”. These counter comments are an extension of the arguments previously presented in the main response to the CP. For the sake of continuity, here is a quick summary of the key submissions made earlier:

- ✓ *The Central Government should not issue an authorisation to the applicant entity and the extant practice of the Government entering into a license agreement with the applicant entity should be continued with for the purposes of granting authorisations under Section 3(1) of the Telecom Act.*
- ✓ *The contractual nature of the authorisation/license as well as spectrum assignment must be preserved even under the new regime.*
- ✓ *The rules should only provide for the broader aspects like application process, eligibility conditions, etc., while the detailed terms and conditions should continue to form part of the contract between the Government and the TSP.*
- ✓ *The general guidelines/rules for issues outside the purview of license conditions can be introduced following the due process of law. The Government should be mandatorily required to conduct a thorough public consultation process for any rulemaking under the Telecom Act.*
- ✓ *While the concept of Unified Services Authorisation (National) for end-to-end telecom services is a step in right direction, there are many unanswered questions related to it. Therefore, the Authority should use the inputs received through this CP to first identify and gather stakeholders’ inputs, and then have another round of consultations with a more firmed-up view on what the proposed unified authorisation framework would look like and how it would function.*
- ✓ *The scope of ISP authorisation should not be enhanced to include the provision of leased circuits/VPNs.*
- ✓ *There should not be any conflict in clubbing NLD and ILD Service authorisations to form a single Long Distance Service authorisation, as long as no additional compliance requirements are imposed on a specific service by the reason of such clubbing.*
- ✓ *GMPCS and Commercial VSAT CUG Service authorisations should continue to be separate, as is the case currently. There is no need to club the two.*

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- ✓ *There should neither be a separate DCIP authorisation introduced, nor should it be clubbed with the IP-I registration. The present IP-1 framework is working well.*
- ✓ *There is no need to club the scopes of any authorisation other than NLD and ILD.*
- ✓ *OTT Communication Services should be brought under the authorisation/licensing framework; and the principle of ‘Same Service – Same Rules’ should be applied to ensure parity with traditionally licensed TSPs.*
- ✓ *Multi-parenting for a VNO should not be allowed in the case of wireless access services.*
- ✓ *The extant approach of authorisation-specific parenting of VNOs with NSOs should be continued with; service-specific parenting should not be allowed.*
- ✓ *SESG operators should be allowed to acquire/use the spectrum required for the operation of SESGs/SNPs, to install baseband equipment at the SESGs/SNPs, and to connect SESGs with PoPs – under a light-touch registration framework. They should not be required to obtain any license/authorisation.*
- ✓ *The scope of revenue should be defined in a way so as to promote/become enabler for co-existence of Licensed Telecom services with non-licensed and/or non-telecom product or services.*
- ✓ *The rate of the Authorisation fee should be reduced from 3% to 1% of AGR and brought at par with global best practices of recovering only the administrative cost of managing the authorisation/license.*
- ✓ *The USOF levy of 5% should be abolished altogether. Or, at least in the interim, it must be kept in abeyance till the unutilised amount of the corpus gets fully utilised.*
- ✓ *The requirement of bank guarantees should be done away with.*
- ✓ *In order to bring in better consistency, comparability, transparency and ease of doing business, the norms for preparation of financial statements under the license/authorisations should be aligned with the Companies Act, 2013.*

In the following section Airtel submits its counter comments on key points raised by some of the stakeholders.

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(a) Unified Service Authorisation at national level for end-to-end telecommunications services with pan-India service area under the Telecommunications Act, 2023:

Some of the stakeholders have suggested that there is a need for introducing a unified service authorisation at overlay level for the provision of end-to-end telecommunication services with pan-India service area under the Telecommunications Act, 2023.

One of the Stakeholders has suggested for a Uniform Nationwide SUC Rate with Financial Neutrality and has suggested a formula to calculate a single PAN India SUC rate for the same.

Response:

Airtel submits that the while the proposed Unified Services Authorisation (National) for end-to-end telecommunications services is a step in right direction, **but it requires thorough deliberation before formalizing the regime since there are multiple issues requiring clarity.**

Indian telecom industry has invested lakhs of crores of rupees over the past three decades in having created network infrastructure and services portfolio consistent with licensed service area (LSA) based regime. The licensor’s own administrative set-up in the form of field units or the LSA units has also evolved from this. The entire business and operating model of Indian telecom service provisioning by TSPs has emerged from the LSA based regime evolved over these decades.

While the concept of ‘Pan India Authorisation’ is worth deliberating and may bring in efficiency by immensely easing the compliance burden that is currently imposed due to multiple service-specific and LSA-specific requirements, it is also a fact that such wide ranging and fundamental license/authorisation regime will have a bearing on competition, investments, the public policy goals of the government, the ubiquitous coverage and connectivity needs of the 1.4 billion population and India’s national digital ambitions.

In past and from time to time, whenever any new service authorisation or license category has been envisaged or planned or brought out, the Authority has run a separate consultation in that regard, e.g., in the case of creating a Digital Communications Infrastructure provider (DCIP) OR while dealing with issues concerning IXPs/CDNs or on the matter of VSAT licensing. **Even in such new authorisations, the basic structure of the regulatory framework in the form of service areas has never been changed.**

This has ensured continuity of service, protection of investments, regulatory stability and above all customers safely insulated from any unwarranted and large-scale disruptions.

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However, in the proposed authorisation concept there are various unanswered questions related to points of interconnection, the licensed service areas, the compliance levels & enforcement (single submission at DoT HQ level or burden still to be with TSPs at each LSA unit level?), single PMLN versus circle-wise PLMN, assignment area of access & backhaul spectrum, KYC requirements, Tariff regime, maintaining books of accounts (e.g., Accounting Separation), etc.

Further, for instance, one of the stakeholders favouring the proposed unified service authorisation has also suggested a weighted average formula for SUC for pan-India operation. Again, this requires thorough deliberation before formalizing since there may be multiple issues requiring clarity - since for example, such a formula may also lead to increase in SUC payout as explained below:

1. The SUC is calculated as % of Revenue i.e. $SUC \text{ Payout} = (SUC \text{ Rate} \times \text{Revenue})$ of the LSA. Thus, there are two drivers for an SUC Amount i.e. the Revenue and the Rate. While the given formula factor in the rates, it completely ignores the revenue.
2. Since the proposed SUC rates would be applied on the revenue of all LSAs, it will have a leverage impact (i.e. in case of LSA wherein earlier the SUC rates were lower than the suggested uniform rate and wherein the revenue is on an increasing trend, the total SUC outflow under the proposed scenario will be higher as compared to the existing individual LSA wise rates) and thus can't be revenue neutral.

Therefore, Airtel submits that the Authority should issue a detailed consultation on the proposed unified authorisation so that all related issues can be properly deliberated before such a regime is introduced.

Therefore, Airtel strongly recommends that:

- **The Authority should use the inputs received through this consultation to first identify and gather stakeholders' inputs, and**
- **Then issue another round of consultation with a more firmed-up view on what the proposed unified authorisation framework would look like and invite comments on the same.**

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(b) Allowing multi-NSO parenting in the same LSA:

One of the stakeholders has stated that multi-NSO parenting within the same LSA be permitted, and once it is permitted, there should be no cap/ceiling as regards number of NSOs that a MVNO can be parented to.

Response:

Airtel reiterates that there is **no case** for allowing VNOs to have parenting with multiple NSOs holding access services.

As submitted in our main response, allowing multi-parenting in cases of wireless access services runs the **risk of creating a super-operator**, which would be able to leverage the network resources of all existing operators (without making any investment of its own), to provide better and enhanced coverage (based on the combined network of all operators) than any of the individual operators. This would prove to be highly unfair to the existing operators who have invested lakhs of crores over the last few decades to build their networks to what they have become today. Such a move may potentially **disrupt the competition in the market and have an adverse impact on industry as well as consumers.**

As seen from the Recommendations dated 06.08.2008¹, 12.04.2011², 01.05.2015³, and 08.09.2017⁴, **the Authority has comprehensively looked at, consulted upon and reviewed the entire regime at regular intervals and, after, has broadly retained its position on the principle of the matter.**

Even the guidelines framed by DoT consequent to these Recommendations have not deviated from this position. It has been the consistent stand of both the Authority and the DoT that multi-parenting in wireless access services would involve multiple complexities and risks and, hence, cannot be allowed.

Even in case of wireline access services where multi-parenting is allowed, is only under certain conditions which have been arrived at after detailed analysis and huge deliberation conducted on multiple occasions over the last 15 years. This whole time, the view that multi-parenting should not be allowed in cases of wireless access services has never been in doubt.

Airtel reiterates that multi-parenting should *not* be allowed for wireless access services.

¹ <https://tra.gov.in/sites/default/files/recom6aug08.pdf>

² https://tra.gov.in/sites/default/files/Rec_Infrastructureel.pdf

³ https://tra.gov.in/sites/default/files/Recommendations_VNO_01_05_2015.pdf

⁴ https://tra.gov.in/sites/default/files/Recommendations_on_VNO_8092017.pdf

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(c) Merging the scope of GMPCS and VSAT CUG:

Some of the stakeholders have argued in favour of merging the scope of GMPCS and VSAT CUG licenses, into a single Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023.

One of the stakeholders has argued to merge the scope of GMPCS services into Access Services.

Some stakeholders have suggested a new category of satellite services authorisation titled “Citizen safety-related mobile satellite services”. The scope of services suggested under this sub-category to include “Public Telephony Services”, “Public internet services”

Response:

There is no need to club the scopes of the extant GMPCS authorisation and Commercial VSAT CUG Service authorisation into a single authorisation namely Satellite-based Telecommunication Service authorisation under the Telecommunications Act, 2023.

As noted by the Authority itself in the instant CP, the utility of services provided under the two authorisations is very different. While the GMPCS authorisation includes provision of satellite-based telephony and data services, the Commercial VSAT CUG authorisation covers satellite-based data connectivity within a closed user group and backhaul connectivity to Access Service providers.

The fact that the services under both the authorisations are provided using the same medium, i.e., satellite, cannot be reason enough to club them together. By such logic, none of the different authorisations for terrestrial connectivity (Access, ISP, NLD, PMRTS etc.) should exist.

Hence, Airtel believes that the GMPCS and Commercial VSAT CUG authorisations should not be clubbed into a single authorisation. Further, the spectrum for both of these services should continue to be assigned administratively, as envisaged under the Telecom Act.

Therefore, Airtel recommends that GMPCS and Commercial VSAT CUG authorisations should continue to be separate.

However, in case the Authority has a different view, Airtel recommends that a separated consultation should be issued to deliberate on the issue.

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On the proposal by a few stakeholders suggesting a new or separate category of “Citizen safety related mobile satellite services” should be created with “Public telephony” and “public internet services” under its scope, **Airtel submits that** this requires more deliberation through a separate detailed consultation.

Accordingly, TRAI should issue a separate consultation paper on the issue.

In view of the above considerations, Airtel recommends that:

- 1. The scope of GMPCS and Commercial VSAT CUG authorisations should continue to be separate and not clubbed. It is crucial to ensure licensing and regulatory consistency & stability in the nascent sector in which investments have been already made.**
- 2. A separate consultation should be issued on the issue of “citizen safety related mobile satellite service” as it involves multiple aspects including spectrum.**