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March 10, 2009

Chairman,
Telecom Regulatory Authority of India,
Mahanagar Doorsanchar Bhawan,
Jawahar Lal Nehru Marg,
New Delhi - 110002.

Kind Attention: Mr. S K Gupta, Advisor (CN)

Subject: Consultation paper on Licensing Issues relating to Next Generation Networks.

Reference: Consultation Paper No: 3/2009 dated January 27, 2009.

Sir,

Please find enclosed BT's response to TRAI's consultation paper on licensing issues relating to Next Generation Network (NGN). We would like to deliberate these in your open house discussions in New Delhi.

Thanking you.

Yours sincerely,

(Satyen Gupta)
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Annex

BT's response to TRAI's consultation paper on licensing issues relating to Next Generation Network (CP No. 3/2009)

General Comments

BT appreciates the opportunity to respond to the TRAI consultation paper on licensing issues relating to Next Generation Networks. We have set out below our position on a number of the specific questions raised and would also add the following general comments on the issue.

(i) Promotion of competition

BT would submit that one of the key roles of the regulator is to promote competition which will ultimately benefit the end users. It is with this main objective in mind that the TRAI should approach licensing issues relating to NGN. As highlighted in paragraph 4.8 of the consultation paper, the ITU has also recognized the promotion of fair competition as an objective of NGN regulation. In order to promote competition, barriers to entry must be lowered through less burdensome licensing requirements including a simplification of the licensing regime and a reduction in licensing costs and regulatory levies.

(ii) Provision of services to enterprise customers

Although the consultation paper sets out a number of benefits to residential customers which can be brought about by NGN it does not focus on neither the benefits to enterprise customers nor the specific regulatory implication for providing services to business. In the current climate of economic downturn, it is more important than ever to ensure that business have access to innovative and cross border services. These services enable businesses to take full advantage of globalization and to improve economic conditions. However, providing services to business customers is very different to providing services to consumers. Businesses require high speed, resilient and secure networks. Because of their geographical diversity and the need to connect a businesses multiple site across a country or around the world, service providers need access to the networks of incumbent operators – it is simply not economically feasible for business service providers to build out access to each premise. This does not mean that business service providers are not investing but rather that the investment may be targeted in another segment of service provision such as the application layer. In the examination of how to promote investment in Next Generation Networks, it is important not to discount this investment and instead recognize the importance of services based competition and the overall benefits this can bring to the economy as a whole.

(iii) NGA / NGN in the UK

Ofcom has recently examined issues related to NGN and NGA and BT would suggest the TRAI to review these documents. In particular there are following two relevant statements:

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Delivering Superfast broadband in the UK which can be found at: (http://www.ofcom.org.uk/consult/condocs/nga_future_broadband/statement/statement.pdf); and

Ethernet Active Line Access: Updated Technical Requirements which is available at: (<http://www.ofcom.org.uk/telecoms/discussnga/eala/updated/updated.pdf>) These documents address the issue of technical standards but also have taken the approach of balancing the need to attract investment in NGA with the need to protect and promote competition.

Specific Responses

In the section below, BT has set out its responses to particular questions which have been raised in the consultation document. We look forward to discussing these questions and the other questions raised at the TRAI Open house on this issue as well as during future consultations.

5.1.1 In view of emergence of NGN and technological innovation, do you perceive the need for change in the present licensing and regulatory framework? If so, elaborate the changes required in existing licensing and regulatory framework? Give your suggestion with justifications.

Yes, there is an urgent need for change in present licensing and regulatory framework to facilitate deployment of NGN in the country. India still has service specific licensing where different services require different licenses. Also, approvals /registrations are required for providing value added and application services over and above the basic service being provided under a license. This is overly burdensome and represents a barrier to entry. As NGN enables provision of multiple services through the usage of same network that is, the concept of "single network- all services", the service specific licensing framework should be replaced by service- agnostic licensing whereas by obtaining a single license a service provider could provide all the services which NGN enables. Also, for value-added services and application services instead of separate licenses a simple registration/authorization by way of "class license" could be done. This concept was already recommended by the TRAI but is yet to be converted into a policy by the government. It is now time that this is accepted by the government and converted into a policy framework for telecom licensing to facilitate the deployment of NGN.

Without Next Generation Access (NGA) which is provision of high speed access to end users, the full benefits of NGN cannot reach the consumers. For this to happen in expeditious manner there is a need for clear and unambiguous policy on sharing of the last mile among competing operators. In particular, a market review should be concluded and any operator found dominant within the specific market should be required to provide access to the last mile in a cost orientated and non-discriminatory manner. It is only when market dominance is addressed will true competition in services flourish.

As far as regulatory framework is concerned, to enable NGN deployment there is a need to reconsider the interconnection regime which is presently based on concept of usage that is miles and minutes based. A separate consultation will be required to deliberate upon changes in this area.

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5.1.2 Is there a need to identify the control points and monitor the market development to ensure smooth migration to NGN? In your opinion what should be the regulator's role in such context? Please give your suggestions with justification.

Dominant operators with a requirement to provide interconnection should be required to fully consult with competitive carriers. The regulator has a role in ensuring that a move to NGN networks is conducted in a transparent way and that NGN networks are open access with all operators able to obtain access to both NGN and NGA on a non-discriminatory basis.

5.1.6 The present licensing conditions require installation of all switches within the licensing area. Do you feel that such restrictions may not facilitate best economical network model and impact migration to NGN? If yes, what changes on licensing condition do you suggest? Please give your suggestions with justifications.

In the environment of technology neutrality as well as emerging trend towards all-IP based networks, mandating any rollout obligation can be a significant barrier to entry and therefore hinder innovation and competition. Any rollout requirement should be left to the commercial decision of the operators concerned and they should be provided with the "Build or Buy" option. Regulation should instead be targeted and requiring the availability/offering of the service irrespective of the ownership of the network ie access to the network. Any mandated roll-out obligation may put restriction on the flexibility of the service provider to choose the most optimum technology and may not result into the most efficient usage of the infrastructure. It is suggested that more emphasis should be given on the sharing of common infrastructure than on creation of duplicate infrastructure.

5.1.8 Do you consider country specific standardization will be necessary to ensure inter operability in NGN environment in view of many optional fields in existing standards? If so, is there a need to prescribe mandatory interface approval to ensure the interoperability in NGN? If no, then what sat should be done to ensure interoperability? Please give your suggestions with justifications.

As most of the operators are likely to deploy network based on international standards (those by ITU, IETF, and IEEE), interoperability is not likely to be an issue. Therefore, Interoperability and standardization should be left to the market forces to start with. The TRAI should monitor the market developments and review the same at a later stage if required at appropriate time.

5.1.9 Whether emergency number dialing be mandated from devices (Fixed, nomadic, and mobile) connected on IP platform in India? If so, is there a need to mandate location details of such devices by services providers? Please support your suggestions with suitable justification.

The TRAI in its recommendation on removing restriction on internet telephony in India vide recommendation dated 18th August 2008, has recommended the following;

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