

### Chapter 6 - Issues for consideration

Keeping in view our objectives of free growth of new services and applications, simplifying the licensing procedure, flexibility, efficient utilization of resources, encouragement to efficient small operators to cover niche areas, the following issues are submitted for consideration of various stakeholders:

#### Framework of Unified Licensing Regime

1. Based on the key objectives of Unified Licensing, International practices in this regard, the proposed models of Unified license in this paper and the current status of Indian Telecom sector, please give your views on the Unified Licensing Model which should be followed in India? You may also suggest any extra Unified licensing model, if not covered in the proposed models. Please also comment whether IP-I, IP-II, VSAT and GMPCS services should be part of Unified Licensing Model or they should be licensed separately? Should IP-I and IP-II services be licensed at all?

**Railtel:** We propose Model-I with Category-IV to be adopted for unified license and class license. This is proposed as all the services which requires significant investment and present growth is much lower than the other telecom services (such as basic and mobile services) be considered under class license. This will result into acceleration in the growth of such services. It is, therefore, proposed that services like IP-I, IP-II, ISP, PMRTS, Radio paging, VSAT and GMPCS should be included under class license.

Further, it is proposed that although National Long Distance is available as a separate telecom license since long, only integrated players have taken the license for operating NLD service due to large entry, difficult roll out obligations and need of high capital investment for such services. Further, due to non-implementation of CPS, it is not possible to get any outgoing revenue. It is, therefore, proposed that NLD services can also be considered for inclusion in class services, so that existing IP-II operators having OFC infrastructure can consider offering NLD services which will further bring down the cost of long distance carriage charges within the country.

**VSAT:** Low investment and ease of regulation should be the prime consideration for inclusion under Class License. The Class Licenses should cover all services, which can be delivered using the facilities of Unified License Operators or Infrastructure Service Providers. Class License Operators should also be allowed to build their own independent exclusive infrastructure using VSATs or any other medium requiring low investment provided the infrastructure is not targeted for delivering services which are competing directly with the primary services covered under Unified License Operators or Infrastructure Service Providers. In view of this we propose that:-

- Unified License should cover current licenses for Unified Access, Cellular Mobile, Basic Services, NLD, ILD and GMPS.
- Class License should be for services like ISP, All OSPs, IP Telephony, VSATs for CUG/BUG, PMRTS, Radio Paging, and Unified Messaging.
- Infrastructure License should cover IP-I, IP-II

**Estel:** We are in favour of the Concept of Class License especially in respect of services like ISP etc. In our view, IP-I and IP-II services are essentially infrastructure services catering to the Licensed Carriers and as such should be out of the purview of licensing.

**SHYAM:** Answers for Questions 1 to 8

The Unified Licensing Model should exclude services like VSAT, GMPCS etc. Services such as GMPCS, VSAT, IP Telephony, Radio paging, Trunking, Public switched Data services etc, may be classified under "Class License"

Migration to Unified Licensing Regime should be optional. All licenses should be based on the model of Unified Access License, i.e. free for all, with a pre determined entry fee and revenue sharing.

Further IP I and IP II may be de licensed and Inter net Telephony should be part of Class License.

**ABTO:** The Unified Licensing Regime seeks to bring the various service specific licenses in our country on to a single technology neutral platform. Its effort is to encourage and enhance free growth of new applications and services incorporating the latest technological developments.

TRAI has suggested several models in all of which operators are free to offer any telecom service in their licensed area subject to notifying the TRAI and complying with published guidelines.

We feel that Model – I under Category - III as suggested by TRAI would be a fairly workable model. ABTO would only like to propose a slightly modified version of this which we feel is best suited for our country. The proposed model is of only two categories:

A Unified License

- Basic, Cellular, Unified Access, National Long Distance, International Long Distance, Internet, Cable TV & DTH, VSAT based voice, data and all new services as they emerge.

A Class License

- Radio Paging, PMRTS, ISPs and GMPCS with existing terms and conditions – a subset of Unified Licensing.
- New services which require low infrastructure can also be considered under the Class License category.
- IP – I and IP – II should remain outside the ambit of Unified Licensing, as these are not services provided to end customers. These need not be licensed.

We also feel that the concept of Niche Operators would be adequately covered under the Class license category and as such there is no need to create this additional sub-section under the Unified Licensing Regime.

However, niche operators should be clearly defined and there should be set rules for interconnection, scope of services, entry fee etc.

**BPL:** The Unified License should include all types of Telecom Services including the services classified under 'Class License'.

**TATA:** The proposed Unified Licensing regime should be such as to facilitate free and open competition.

The Unified Licence, should therefore cover all the major telecom services such as Mobile, Fixed, NLD, ILD and VSAT. Model 1 Category IV suggested in the Consultation Paper is the most acceptable as we feel that this model is best suited to meet the objectives of rapid growth in the Indian telecom sector.

We believe that GMPCS with PSTN connectivity should also be included under the Unified Licensing Regime (ULR), and the same terms that are applicable to other mobile service providers should be extended to GMPCS. The VSAT operators should also be allowed to interconnect to the PSTN on payment of applicable revenue share and interconnect fees. The TRAI should develop a suitable interconnect regime for both GMPCS and VSAT.

Services like Radio Paging, PMRTS, IP-I, IP-II and ISP should be treated separately, and there should be a Class Licence category for such services.

All Unified Licensees should automatically be deemed to possess all the Class Licences.

It is necessary that the open and free regime of Unified Licensing is accompanied by certain obligations on all the licensees, to ensure a level playing field amongst all the players. The following must be mandated:

- Immediate implementation of Carrier Access Code and Pre-selection by all operators, including BSNL & MTNL
- Open Access to IN services by & between all operators
- Opening of Calling cards facility between all operators
- Intermediate (transit) handover of both Intra- and Inter-circle long distance calls.

**SPICE:** Looking at the various Models and their variants proposed by the Authority, we believe that the approach mooted by the Authority under Model I Category IV would be most appropriate model for India to adopt while moving to a holistic unified licensing regime. Under this approach, the Authority has classified the licensing regime as follows:

**A. Unified License**

- Basic Services, Cellular Services, Unified Access Services, National Long Distance, International Long Distance, VSAT Services, GMPCS Services (only service aspects)

**B. Class License**

- Radio Paging, PMRTS, ISP, IP-I, IP-II, Any other non-facility based application service.

It is our understanding that a Unified Licensee can also offer all services and facilities that are listed under a Class License. A Class Licensee will however have to take a Unified License in case he wants to offer any services listed under the Unified License.

An IP-II should have the option to also offer voice services using any technology. This is in consonance with the 'March of Technology', which permits the same infrastructure to offer both data and voice services at a nominal cost. This would ensure optimum utilization of resources, which is in line with key objective of efficient utilization of resources and also provide a competitive choice with Long Distance sector.

**CUTS:** Unified licensing for all services (with conditions pertaining to security attached wherever applicable). IP-I and IP-II should be licensed separately as they require different licensing conditions in view of the nature of their operation

**CyberBazaar:** MODEL II is recommended as it maps to our current licensing model: IP-I & IP-II need should obtain a Network Infrastructure Facilities License as they would be required to register with the authority and regulator for information purposes and provide quarterly information on availability of resources and users of their resources and pricing.

They may be required to follow a broad set of guidelines with respect ROW, meeting QoS and fair priced equi-access Interconnects. Would require very minimal regulation and nominal registration and annual fees. GMPS should be covered under the ILD license regime as scope of service and regulation and issues are similar. Only difference will be spectrum for which charges are envisaged separately. VSAT can be considered part of Domestic Access or ILD license based on the scope of the service. The following additional Licenses are suggested to cover some services, which require different nature of regulation.

- i. **Network Infrastructure Facilities (As in Consultation Paper):** Provide passive elements to service providers like ducts, dark fibers (undersea/terrestrial), telehousing facilities. Need to meet specification of testing authorities and will have ROW rights state/interstate. Service Area based on ISP model.
- ii. **Networking Services (As in Consultation Paper):** Provide active elements to service providers like bandwidth, exchanges. Service Area based on ISP model.
- iii. **Air Space Service Providers (Additional):** Who have infrastructure in airspace. Ex Satellite Owners for Communication & Broadcast (excludes VSAT's). Need to be auctioned and separate category required because of International Air Space issues.
- iv. **Network Application Services (As in Consultation Paper):** Like fixed line, mobile, WILL. Will have ROW in towns and cities and limited Spectrum to be made available on a fixed price with a mechanism to recover utilized spectrum. Extra spectrum may be auctioned only in highly competitive areas like Metros and Big Cities. Service Area based on Metros, Circles, LDCA and SDCA should be available.
- v. **Network Application Services Value Added (Additional):** Like Internet, VPN, VSAT, Bandwidth providers who need Point to Point link to deliver service or Point to Multipoint in a very small coverage area to deliver service. Limited Spectrum should be available on payment of fixed price. Service Area based on ISP model.
- vi. **International Service Providers (Additional):** ILD, GMCS etc. Should be available at a lower entry fee and separate category necessary to fulfill international requirements on settlement, landing right etc.
- vii. **Neutral Service Providers (Additional):** Provide services like Clearing House (Local/Long Distance), Interconnect for operators, facilitate Number Portability, Directory Services, etc and are neutral to all operators. To Be exempted from License Fee.
- viii. **Value Added Service Providers (As in Consultation Paper):** Internet, Paging, Messaging, Conferencing, Call Completion (Follow Me, Call Screening) and Calling Card etc, MVNO, Roaming Service Providers.
- ix. **Neutral Service Providers (Additional):** Provide services like Clearing House (Local/Long Distance), Interconnect for operators, facilitate Number Portability, Directory Services, etc and are neutral to all operators.

#### COAI:

- a. Looking at the various Models and their variants proposed by the Authority, we broadly believe that the approach mooted by the Authority under Model I Category IV would be most appropriate model for India to adopt while moving to a holistic unified licensing regime.
- b. Under this approach, the Authority has classified the licensing regime as follows:



Unified License	Class License	Exempt Services
<ul style="list-style-type: none"> <li>▪ Basic Services</li> <li>▪ Cellular Services</li> <li>▪ Unified Access Services</li> <li>▪ National Long Distance</li> <li>▪ International Long Distance</li> <li>▪ VSAT Services</li> <li>▪ GMPCS Services (only service aspects)</li> </ul>	<ul style="list-style-type: none"> <li>▪ Radio Paging</li> <li>▪ PMRTS</li> <li>▪ ISP</li> <li>▪ IP-I</li> <li>▪ IP-II</li> <li>▪ Any other non-facility based application service</li> </ul>	

- In consonance with the concept of unification, it is our understanding that a Unified License also includes a Class License i.e. a Unified Licensee can automatically offer all services and facilities that are listed under a Class License. A Class Licensee will however have to take a Unified License in case he wants to offer any services listed under the Unified License.
- Further, we believe that within this framework / model, all types of telecom services including the services listed by the Authority as also related value added services should be permitted under a Unified License. In fact, as a general rule, all voice telephony services, except maybe for services offered by Niche operators in Rural SDCAs, should only be permitted under a Unified License. Broadband services (both fixed and mobile) should also specifically form a part of the Unified license.
- We agree with the Authority that only the service aspects of GMPCS should be included under the unified license, while additional conditions pertaining to issues of security, etc should be linked with the licensing of satellite services and frequencies involved.
- We also agree with the Authority that services such as Radio Paging, PMRTS, I, IP-I & IP-II, etc because of their lower competitiveness insofar as their application and revenue potential is concerned should be classified under a Class License as long as they do not have both-way PSTN connectivity.
- We have also noted the Authority's clarification that the services listed under the Class License are as per their existing terms and conditions and that any change in the existing licensing terms and conditions to cover services such as voice telephony (where feasible on existing infrastructure), etc would require a unified license. We understand this to mean that if an ISP chooses to provide Internet telephony he can do so only after taking a unified license.
- We support the introduction of Internet Telephony as long as it is on the same terms and conditions as other operators so as to ensure level playing field. In this context, we submit that if Internet Telephony is to be allowed, it may be both desirable as well as necessary to move ISPs from the Class License category to the Unified License category, so as to prevent issues of enforcement that could arise if any ISPs offer Internet telephony without acquiring a Unified License.
- The Authority has not clearly stated in Model I, which services if any, would qualify for exemption from licensing.

**BSNL:**

BSNL had earlier submitted that segregation of the telecom services and networks as envisaged in the proposed communication Convergence Bill, prima facie, seems to be a better option. Accordingly, BSNL would have supported Model II given in the Consultation Paper. However, in view of the fact that Government has implemented the UASL regime very recently, BSNL is of the view that it is not advisable to change the licensing regime again within a short span of about 5 to 7 months. It is suggested that we may have following two types of unified licences;

- i) Unified Telecom Service Licence - This may cover all the services as given in Category-1 of Model-I.
- ii) Unified Access Service Licence - The present circle based UASL regime, which has been implemented very recently, may continue for the provision of access services in the circle.

IP-I and IP-II services should continue to be licensed as at present.

**Palakkad District Consumers' Association, Kerala:**

Answer for 1 to 7:

We heartily favour the framework proposed by the Authority. Unified Licensee can automatically offer all services and facilities that are listed under a Class License. A Class Licensee will however have to take a Unified License in case he wants to offer any services listed under the Unified License.

**MTROA:**

Our recommendation on the Unified Licensing Model to be followed :

In our opinion, the Unified Licensing Model to be followed should be a variation of the Model III.

Given the niche character of the PMRTS Service world wide, it deserves not only low regulation but also a near zero licence fees. However, despite all the data submitted on the liberal PSTN interconnect regime followed by other countries and ample evidence of the Service still not exceeding 5% of the total wireless subscribers, TRAI continues to believe that the PSTN regime should be restrictive in nature.

Given this, the PMRTS industry must get at least as much extent of PSTN interconnect as is necessary to meeting the end customer requirements of carrying only one device. World wide experience and data points to this extent as 40%.

In view of the above, we would like to recommend as below:

- (i) A PMRTS operator wanting unrestricted PSTN interconnect, an unrestricted numbering plan and an All India Service Area may be issued an FBO Licence, whose terms and conditions may be the same as decided for a CMTS Licence under a Unified Regime.
- (ii) A PMRTS operator willing to accept a restrictive regime on PSTN Interconnect, numbering plan, Interconnectivity in and across Service Areas etc may be assigned to a new type of Class Licence category.

This paper shall dwell only on the Class Licence category as the FBO Licence for PMRTS shall be on the lines of what TRAI finalizes for the CMTS operator wanting to migrate to a Unified Licence Regime.

The terms of the suggested Class License for PMRTS may be :

- (a) A restricted PSTN interconnect (40% of total traffic) only may be permitted. However, this needs to be 2 way for reasons explained above.  
  
However, the numbering plan availability is essential to make PSTN interconnect meaningful to the end customer, especially from the point of view of the end customer's inability to carry 2 devices for the same application.
- (b) Restricted Numbering plan: Not more than 999000 numbers may be allocated per service area to all the Class Licensees.
- (c) However, the Licence must be valid for a period of 10 years (to allow migration from existing Licenses).
- (d) Other restrictions that may apply to the PMRTS Class Licence :
  - i) Inter service area traffic to be routed through an FBO Licensee
  - ii) Barred from providing NLD, ILD services

**Thuraya:** The GMPCS services should be made part of Unified Licensing Regime as in a number of other countries / regions, GMPCS service is licensed under a common licensing regime. The new EU regulatory package does not distinguish between different telecom services unless the use of frequency spectrum and numbering is involved. The frequency spectrum in Europe is regulated through the CEPT milestone review process for different GMPCS systems.

In Malaysia, the GMPCS service is provided under a Network Application Service License.

The Thuraya GMPCS services are currently authorized in around 85 countries in a coverage area currently consisting of 110 countries. The coverage area will be expanded by the end of the year by positioning an already in orbit second satellite to cover East Asia. In a number of other countries, the grant of the authorization is in final stages.

It is to be noted that licensing of Thuraya services is carried out in the vast majority of the countries through simplified licensing regime and procedures. These licensing regime and framework consist in some cases, exemption from licensing or grant of general authorization, which we believe, is on the same lines as a Unified Licensing Regime.

The GMPCS target market is a very niche market and therefore does not merit high degree of regulatory control.

**Hughes:**

We recommend separation of Infrastructure licenses & Class Licenses from Unified Licenses We therefore suggest:

- Unified License to cover current licenses for Unified Access, Cellular Mobile, Basic Services, NLD, ILD and GMPS.
- Class License for services like ISP, All OSPs, IP Telephony, VSATs for CUG/BUG, PMRTS, Radio Paging, and Unified Messaging.
- Licenses for Infrastructure to cover IPI, IPII

VSATs for CUG/BUG, PMRTS, and Radio Paging should be covered by Class License. We are of the opinion that by including these services under Class License, principle of 'level

playing field' will not be violated. However, if this becomes a hotly debated point, these services can be continued under specific licenses.

**Orissa Consumer's Association:**

Answer for 1 to 7

- (A) Licensees like infrastructure providers who do not provide service to the end customers should not be kept under U.L.R. for three years for keep assessing their work periodically.
- (B) Low entry fees be taken from class licensees. Reasonable fees but not high fees be charges so that burden will ultimately be sifted to en users/ common people & will not be affordable.

**Bharti Welfare Foundation:** The licensing should be only for the services, for infrastructure no licensing should be required, only a class system shall do. The MODEL I in TRAI consultation paper is well suited in the Indian Context.

**CUAI:** Appropriate Model for Unified Licensing: The Model 1 as envisaged in 3.7 of the consultation paper is more appropriate, Category IV of the model 1 s more futuristic, while Category I is equivocally well suited to the India context.

**Bharti:**

A Unified Licensing regime should have two categories of Licenses viz. Unified License and Class License.

The Unified License should encompass the following Services:

- (i) Access;
- (ii) National Long Distance (NLD);
- (iii) International Long Distance (ILD) and
- (iv) VSAT

The Class License should encompass the following Services:

- (i) Radio Paging;
- (ii) PMRTS;
- (iii) IP-I & IP-II
- (iv) ISP
- (v) GMPCS

**Reliance:** Out of various models suggested by TRAI, Model I should be followed for implementation of Unified Licensing Regime in India.

Other models suggested by TRAI i.e. Model II (in lines of Convergence Bill) and Model III (Facility and Service based Licensing) are radically different approaches as compared to existing licensing framework. Also non-facility based licenses, as envisaged in these two models, are detrimental for the infrastructure development as well as would result into entry of non-serious players in the telecom market. Further these models would pose numerous problems in case of migration of existing telecom operators.

Thus in line with Model I suggested by TRAI, the framework for unified licensing regime can be as follows:

**Unified License** – In which services such as Basic, Cellular, UAS, NLD and ILD are included

**Class License** – Under which services such as Radio paging, PMRTS, ISP (with present internet telephony scope), VSAT for CUG applications without PSTN connectivity, GMPCS

with existing terms and conditions and any new services which require low infrastructure deployment can also be included

In this framework, Unified Licensee should be placed at the higher hierarchical level i.e. Licensees who are licensed as unified licensee should be able to offer services that Services Class Licensee can offer, but not vice versa. Non-facility based operators or Niche operators as proposed in the paper should not be permitted for various reasons detailed in the following response.

**ISPAI:** We are in favour of the Concept of **Class Registration** especially in respect of services like ISP, etc.

Class Operators need only be registered by way of information and even approval may not be necessary for such operators. However, they must abide by certain broad guidelines as set out for them.

Similarly, operators offering infrastructure under IP-I and IP-II should also be under **Class Registration**.

2. **In case concept of Class License is followed, then what should be the criterion for classifying the services under this category of license?**

**Railtel:** The criteria for including services under class license should be the services where present growth rate is much lower than anticipated growth and total revenue as compared to capital investment as also absolute revenue is low. It has, therefore, been proposed that class license should include IP-I, IP-II, Radio paging, PMRTS, ISP, VSAT, GMPCS and NLD.

**VSAI:** Low investment and ease of regulation should be the prime consideration for inclusion under Class License. The Class Licenses should cover all services, which can be delivered using the facilities of Unified License Operators or Infrastructure Service Providers. Class License Operators should also be allowed to build their own independent exclusive infrastructure using VSATs or any other medium requiring low investment provided the infrastructure is not targeted for delivering services which are competing directly with the primary services covered under Unified License Operators or Infrastructure Service Providers. In view of this we propose that:-

- Unified License should cover current licenses for Unified Access, Cellular Mobile, Basic Services, NLD, ILD and GMPS.
- Class License should be for services like ISP, All OSPs, IP Telephony, VSATs for CUG/BUG, PMRTS, Radio Paging, and Unified Messaging.
- Infrastructure License should cover IP-I, IP-II

**Estel:** All ISPs should be treated under a single **Class License**.

**ABTO:** Class licenses, as the name suggests, define a set of rules that will qualify any given "class" of people/entities the right to set up and operate a specific type of service.

For example, in Hong Kong there are the following types of class licenses:

- For In-building telecom services
- For Public wireless local area networks

In the UK there are dozens of class licenses including:

- International simple voice resale
- Cable and other network services

Generally class licenses aim at light handed regulation, aiming at reducing the barriers to entry.

In our case, class licenses should therefore focus on easy entry of operators under a regime with minimum set of requirements for providing such services like Radio Paging, PMRTS, Internet access, database services etc.

The general criteria for issuing class licenses should be:

- Requirement of low infrastructure
- Nominal entry fee with relatively easy terms and conditions.
- Non-facility based services

Unified Licensee will be free to offer all services under class license. If class licensee wants to offer any services under Unified License Regime then they have to take Unified License.

**BPL:** We agree with the concept of Class License. A Class License should include services which do not require setting up of extensive infrastructure. The infrastructure services like IP-I, IP-II should also be included in the Class License. A Class License may include the following services:

- Radio Paging
- PMRTS
- Internet Services (excluding Voice on internet)
- Unified Messaging Services
- IP-I, IP-II
- Any other non-facility based application services
- V-SAT Services

**TATA:** As mentioned in response to question 1 above, there should be a separate Class Licence for services like Radio Paging, PMRTS, IP-I, IP-II and ISP.

The main criterion that should be adopted for classifying services under the category of Class Licence is:

- Services that generally require low infrastructure and are not covered under Unified Licence.
- Services that should have relatively easy terms and conditions

**SPICE:** We are in agreement with the principles outlined by the Authority for classification of services under a Class License, which focuses on easy entry & operation.

**CyberBazaar:** Class License should be for Value added services, which are applications or services provided on PSTN/PSDN network. (excludes transmission, switching)  
Ex.Voicemail/Audiotex/Unified Messaging/Email/ISP's/Calling Cards/VPN  
Providers/MVNO's.

**COAI:** As already submitted above, we are in broad agreement with the principles outlined by the Authority for classification of services under a Class License.

**BSNL:** Only non-facility based application services may be licensed under the Class Licence. It is, however, felt that service-by-service licence as is being granted at present may be a better option.

**MTROA:**

Our views on whether the PMRTS industry can be put under a Class Licence Category:

Based on the criteria listed above, PMRTS cannot be classified under a conventional definition of a Class Licence because:

- i) High investments in infrastructure deployment especially a Digital PMRTS system shall necessitate a 15-20 year period of Licence.

Moreover, even the existing PMRTS Licences are valid for 15 years given the high infrastructure investments.

A 'conventional' Class Licence needs a renewal every year and therefore not adequate for bringing about required investments.

- ii) A restricted PSTN connectivity (15% has already been permitted to the PMRTS industry. The PMRTS industry has made presentations to the Licensor on why it should be 2 way and the need for a numbering plan. The industry is hopeful of a decision in their favour. (Presentation attached in Annexure 1 for 7 Industry segments).

Given TRAI's reservations on linking type of PSTN connectivity<sup>1</sup>, PMRTS may, not be therefore eligible for classification under a 'conventional' Class License as the industry requires a 2 way PSTN interconnect of 40% (traffic share)..

However, PMRTS industry's unique selling proposition of 'one to many' or group communication at the press of a button (No dialing, just push to talk-PTT) makes it uniquely positioned to target institutional buyers with such a need. (Individual customers do not have this need). Since it is the PTT 'application' that drives spectrum efficiency and revenues, going after individual customers will automatically reduce spectrum efficiency (loading / channel is reduced from 70 to 6 subscribers) and hence revenues for a PMRTS operator! (charges for 70 customers have to be recovered from 6 customers).

**Thuraya:** The telecom services that target niche market and are provided in accordance with international standards and specifications should be covered under the concept of Class License.

**Hughes:** Low investment and Ease of regulation should be the prime consideration for inclusion under Class License. The Class Licenses should cover all services, which can be delivered using the facilities of Unified License Operators or Infrastructure Service Providers. Class License Operators should also be allowed to build their own independent exclusive infrastructure using VSATs or any other medium requiring low investment provided the infrastructure is not targeted for delivering services which are competing directly with the primary services covered under Unified License Operators or Infrastructure Service Providers.

**Bharti Welfare Foundation:** Any service, which is not a mass, based access service or a key carriage may be considered under this category.

**CUAI:**

- (1) Simple services having minimal set up costs eg. Radio Paging, Radio Trunk Services.
- (2) Little impact on the market fundamentals.
- (3) Involve crucial value addition eg. Internet connectivity on mobile phones.
- (4) Are crucial for provisioning of services in under-served areas.

These are some suggestions but not an exhaustive categorization.

**Bharti:** A Class License should encompass those services which are non-facility based application services. The Registration Charges for a Class License should be nominal. A Class Licensee may provide any or all of the services listed under the Class License.

However, in case such a Licensee desires to provide any of the services listed under the Unified License, it would be required to acquire a Unified License. The primary consideration behind creation of a Class License is ease of entry and operation. Under the new regime, the technicalities and procedures of licensing shall be simplified and all licensees under such a Class license shall be subject to the same procedural norms.

**Reliance:** The general criterion for issuing class licenses can be such as requirement of low infrastructure and investment, Nominal entry fee with relatively easy terms and conditions etc.

However while granting class license to any operator, it is important to ensure that

- Class license service scope should not infringe upon the unified license service scope
- Quality of Services (QoS) as prescribed should be guaranteed to consumers.
- Class licensees should be prohibited from offering services reserved under the Unified License and penalties along with the interest should be stiff if they do.

**ISPAI:** ISPs should be under **Class Registration**.

3. **What should be the simplified procedure for granting the licenses based upon the recommended licensing model?**

**RailTel:** The license condition should specify minimum qualification criteria and financial requirement and based on this, license can be granted.

**Estel:** The simplified procedure for Class License should be very similar to the existing procedure for registration of Other Service Providers (O.S.P)

**ABTO:** The process of granting licenses should be simple and rule based.

Our suggestion is that the TRAI should frame a checklist which the licensor should use as a reference point to issue comprehensive guidelines specifying the registration fees/ entry fees, eligibility & roll out conditions etc.

Once prospective operators fully meet the eligibility criteria and comply with other requirements, including payment of relevant entry fees, submission of documents etc, the license should be issued immediately.

**BPL:** Both the Unified License and the Class License should be issued by simple registration/authorisation on payment of nominal registration charges.

**TATA:** The present procedure being followed for grant of Unified Access Services Licence (UASL) should be broadly continued.

For granting Licences under the ULR and Class License categories, the Licensor should issue comprehensive guidelines specifying the registration fees / entry fees, eligibility & other conditions for new Unified Licensees / Class Licensees as well as for migrating existing licencees. The existing UASL should not be required to pay any additional charge / fee for migration to ULR.

In view of the open competition, which is now prevalent in all service segments and the resultant fruits borne by this policy through increased competition leading to steep reduction in tariffs, which has rapidly increased tele-density, there is absolutely no rationale for any restrictive procedures for protecting markets. Hence multi-stage bidding etc. is not called for. Instead, the simplified approach of open competition must continue to allow increased competition, which will be determined by market forces.



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**SPICE:** We are in agreement with the Authority's view given in Para 1(a) of Chapter 2 that Unified Licensing regime would be implemented through automatic Licensing / Authorization subject to notification to Regulatory Authority and compliance with published guidelines which would be quite in line with European Union model.

**CUTS:** TRAI should award license in a time-bound manner and address security and other such considerations, if any, by consulting appropriate agencies.

**CyberBazaar:** Payment of prescribed registration fees for the service area. Network conditions imposed earlier have to be eased to allow participation of smaller companies.

**COAI:** We are in agreement with the Authority's view given in Para 1(a) of Chapter 2 that Unified Licensing regime would be implemented through automatic Licensing / Authorization subject to notification to Regulatory Authority and compliance with published guidelines

**BSNL:** Entry fee, licence fee and the roll out obligations may be clearly prescribed and then allow open unlimited competition in each segment.

**MTROA:** New Licenses in the Class Licence category proposed may be granted to eligible bidders subject to spectrum and numbering resource availability. Availability shall be assessed based on consent of future expansion needs of the existing Licensees.

New Licenses in the FBO Category shall require a much higher level of due diligence.

**Thuraya:** No comment

**Hughes:** Class Licenses and Infrastructure Licenses should be open to all without any limit on the number of operators. Let the market be the battleground and decide the fittest.

**Bharti Welfare Foundation:** The procedure should be as simple as possible and all kinds of automatic authorizations must be subjected to compliance of existing regulations.

**CUAI:** While registration of the licensee with the licensor should be mandatory, the process must be simple authorization to start or add any service available under the ambit of unified licensing; the Regulator & Licensor must ensure compliance even in a simple authorization regime.

**Bharti:** Under the new regime, the Licensor would be required to issue two sets of general Authorization Guidelines; one for the Unified License and another for the Class License. These Guidelines shall apply uniformly to all service providers under the respective category of License.

#### Guidelines for the Unified License

These Guidelines shall contain all the terms and conditions pertinent to Access, NLD, ILD and VSAT Services, which the Unified Licensee would be required to comply with. These obligations themselves could be similar to those contained in the current licenses, although they would have to be redrafted in line with the new licensing framework.

Thus, the diverse 'Service-Specific Licenses' containing different sets of terms and conditions would be replaced by such a common set of Authorisation Guidelines. As a result of the above, service providers would not be required to obtain individual licenses. However, the terms and conditions prescribed under the Authorisation Guidelines shall not be inferior to those contained under the existing licenses from the point of view of the Licensee so as to ensure that their interest is not adversely affected.

28)

The new regime shall function through a process of Automatic Licensing. A service provider who seeks to offer the telecommunication services enumerated under the Unified License, shall have to first comply with the terms and conditions stipulated under the Authorisation Guidelines for the Unified License. Upon compliance of such terms and conditions, the service provider shall only be required to notify the Regulatory/Licensing Authority of such compliance, prior to commencement of operations.

These Guidelines should clearly specify the following :

- (i) The consolidated Registration/Entry Fee payable to acquire the Unified License.
- (ii) License Fee
- (iii) Spectrum charges, if any
- (iv) Roll-Out obligations for each type of service
- (v) Bank Guarantees required to be furnished, if any
- (vi) Level of Interconnection

#### Guidelines for the Class License

These Guidelines shall contain a single set of general conditions, which all service providers must comply with, in order to ensure that they are complying with the law. A service provider shall have the discretion to choose among the various services listed therein. The service provider would itself be responsible for ascertaining which of the conditions applies to its operations. Upon compliance of the relevant terms and conditions, such service provider shall only be required to notify the Regulator/ Licensor of such compliance, prior to commencement of operations.

**Reliance:** The licensor should publish guidelines specifying eligibility criteria, service area, scope, entry fee, rollout obligation etc. In case of existing operators, the present practice followed for Unified Access migration can be adopted for migration wherein the service providers submit the application for migration with payment of difference in the entry fee.

In case of new applications, upon evaluation of fulfillment of all eligibility criterion and compliance with other requirements, including payment of relevant entry fees, submission of documents etc, the license should be issued.

**ISPAI:** The simplified procedure for **Class Registration** should be by way of information only.

4. **Should we consider implementation of Unified Licensing framework through a multi stage process or a single stage process? What are the pros and cons of each suggestion? If the process is envisaged to be completed in phases, what should be the milestones and time frames for each step?**

**RailTel:** It is proposed that unified license should be implemented in a single stage process for immediate implementation and to accelerate the growth of various telecom and value added service.

**Estel:** A single stage process should be used for implementation of Unified Licensing framework

**ABTO:** Unified Licensing framework should be implemented through a single stage process. Just as the Universal Access Regime (UAS) was implemented in a one stage process the comprehensive Unified Licensing Regime should be implemented in a single step and preferably within a time frame of six months.

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This should of course include migration of operators from UASL to ULR. UASL operators should not be required to pay any additional charge/fees for migration to Unified Licensing regime.

Entry of eligible players in the sector should be permitted freely. There should be no single or multi-stage bidding to acquire licenses. The procedure involved should be to simply pay the registration charges or entry fees for the respective service area and fulfill the other eligibility criteria.

**BPL:** In our opinion, Unified Licensing Regime (ULR) should be implemented through a single stage process so as to avoid uncertainty about various level playing field issues which arise any time the licensing regime is changed. In fact it will tantamount to a two stage process as Unified Access Licensing has already been implemented.

**TATA:** There should be a single stage implementation of the Unified Licensing Framework. The service providers under Unified Licensing Regime should be allowed to provide all included services in one go. This should be similar to the implementation of Unified Access License Regime as there was one stage process of acquiring UASL by Access Providers. The same has been implemented in a successful manner.

**SPICE:** Holistic licensing as per the present consultations is already Phase 2 of the 2-Step approach adopted by the Authority. It should not be broken into any further phases as it will lead to:

- Confusion and ambiguity in the minds of all stakeholders including licensees and investors
- Contentious and complex issues of migration at every stage

We believe that in a scenario when India is looking at a very aggressive growth in the telecom sector, any indication that unified licensing would be introduced in phases will only serve to discourage investors and adversely affect and tele-density & growth objectives.

**CUTS:** Single stage process should be followed. Once the unified licensing framework is finalized, switchover to be done after a gap of reasonable time-period by giving a clear notice of the date of switchover.

**CyberBazaar:** Unified Access License has already accomplished the first stage of the process. The remaining may be implemented in quick succession following this consultation by resolving the simpler ones first like VAS and then ones like NLD,ILD,VSAT's, IP Telephony.

**COAI:**

- a. It is submitted that the Authority has already adopted a phased approach in the introduction of unified licensing and full unified licensing as per the present consultations is already Phase 2 of the 2-Step approach adopted by the Authority. As Step 1, the Authority had recommended the unification of Access Services on October 27, 2003. In these recommendations the Authority had opined that "...the ultimate objective of the Unified Licensing/Authorisation regime be achieved in a two-stage process..... unification of access services at circle level be taken up immediately .. followed up with steps to define the guidelines and rules for fully unified license/Authorisation regime..." (para 7.6) and that "...it is recommended that within six months "Unified Licensing" regime should be initiated for all services covering all geographical areas using any technology." (para 7.1)
- b. We submit most emphatically the 2<sup>nd</sup> step must be completed at one-go. Further fragmentation of the holistic licensing process will not only lead to ambiguity and confusion on the policy & licensing regime, but will also give rise to contentious and complex issues of migration at every stage. Further, it will be virtually impossible to ascribe a rationale or

logic for choosing / prescribing a particular time-frame / milestone. A phased process will also be contrary to the Authority's objective of simplifying entry, lowering entry barriers, increasing competition, leveraging technology, etc. Most importantly a phased introduction of unified licensing will adversely affect the inflow of investment into telecom as a flux in the policy and licensing regime would considerably dampen investor interest. We believe that in a scenario when India is looking at a very aggressive growth in the telecom sector, any indication that introduction of unified licensing would be further fragmented into phases will only serve to discourage investors and adversely affect and tele density & growth objectives.

**BSNL:** Implementation of the Unified Licensing framework will have to be carried out in a phased manner. It cannot be implemented in one go.

**Thuraya:** No comment

**Hughes:** Entry Fee paid by the Existing operators should be taken as benchmark. The principle is that the existing operators are not worse off after migration. Existing operators should get more services & more geographic coverage area. We are of the opinion that for simplicity of administration, the changeover should be a single stage process.

**Bharti Welfare Foundation:** Time is ripe in the present circumstances that a single step approach is adapted, the telecom sector is growing exponentially, its time that no uncertainty hangs on the regulatory front, the futuristic licensing measures should be adapted & implemented as a single shot.

**CUAI:** Since lots of capital infusion and strategic planning is required for successful roll out of a telecom network; and the fact that an uncertain regulatory scenario is a hurdle in achieving subscribers makes a multi stage process undesirable, its time the licensor & regulator define the framework for a stable & futuristic policy and implement the same in a single step, and there should not be any uncertainty hanging at the level of policy.

**Bharti:** In our opinion, the new regime should be implemented in a single step. The Regulator had envisaged a two-phase process to migrate to a full-fledged Unified Licensing Regime, as indicated in its Recommendations to the Department of Telecommunications, dated October 27, 2003. With the introduction of a Unified Access Services License, the first phase is in the process of being completed. The second phase involves introduction of the Unified License, which should now be a one stage process.

**Reliance:** Unified Licensing framework should be implemented through a single stage process. Since the migration to unified licensing will be simple and rule based, there is no need for the multi process implementation.

**ISPAL:** A single stage process should be used for implementation of Unified Licensing framework.

5. **Should migration to Unified Licensing Regime be optional or compulsory?**

**RailTel:** It should be compulsory as it is in the larger interest of the nation and end consumers.

**Estel:** Migration should be optional and not compulsory.

**ABTO:** Migration to Unified Licensing Regime should be optional. Existing service providers should be free to provide the licensed services on the existing terms and conditions till the validity of their licenses - if they chose not to migrate to the ULR.

But those who chose to migrate to unified license should be free to offer any combination of services proposed under unified license.

However all new licenses should mandatorily be under the Unified Licensing Regime.

**BPL:** Migration to ULR should be optional. The existing service specific licensees may either continue under the present regime as per the terms and conditions of their existing licenses or they may migrate to the new regime and be governed by the new set of terms and conditions.

**TATA:** Migration to Unified Licence should be optional and not compulsory. However, the Unified Licence should be attractive enough so as to attract a Service Provider to opt for a Unified Licence and offer the entire range of services proposed to be included in the Unified Licence.

**SPICE:** Existing licensees must have the option to continue under the existing licensing regime or migrate to new Unified Regime. However, it is imperative to ensure that the existing licensees are "no worse-off" under the new regime vis-à-vis the new licensees. It is important to consider how the financial health and viability of the existing licensee will be impacted by the introduction of the new licensing regime, and appropriate measures need to be recommended.

**CUTS:** Unified licensing may be kept optional.

**CyberBazaar:** Assuming the new Unified Licensing Regime is more open, flexible and industry friendly existing licensees should have no hesitation to migrate to the new regime.

**COAI:**

- a. Existing licensees must have the option to continue under the existing licensing regime or migrate to new Unified Regime.
- b. However, it is imperative to ensure that the existing licensees are "no-worse off" under the new regime vis-à-vis the new licensees. The principle of "No-worse off" has also been enunciated by the Authority in the section on Key Objectives of Unified Licensing in Chapter 2, Para 2 of its Consultation Paper. Thus, it is important for the Authority to consider how the financial health and viability of the existing licensees will be impacted by the introduction of the new licensing regime, and appropriate measures must be recommended to ameliorate the same. In some cases compensation may have to be paid / adjustments may have to be made by the Government.

**BSNL:** Licenses are contracts and they cannot be unilaterally changed. The migration to Unified Licensing Regime, therefore, has to be optional only.

**MTROA:** Migration to the Unified Licensing Regime should be optional – however the framework, terms and conditions for the Unified Licensing should encourage an existing Licensee to migrate to the Unified Licensing Regime.

Incentives recommended for existing operators to migrate from their present Licence to a new Class Licence under a Unified Regime are :

- (i) First right to migrate to the Unified Licence Regime for either setting up a Digital PMRTS or starting a new service say Public Mobile Data Services.
- (ii) Retention of present spectrum for Analog Services by the operator with a reservation of additional spectrum for expansion of the same.

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(iii) New entrants may be licensed only if spectrum is available post migration consent from existing operators.

**Thuraya:** All telecom services should be regulated through a Unified Licensing Regime.

**Hughes:** Optional – it will avoid unnecessary litigation. However the process and Unified Licensing Regime should be attractive enough to influence and drive the migration.

**Bharti Welfare Foundation:** It should be optional, it is our understanding that all licenses have a time frame, so the standalone players have a fixed time frame left to upgrade to a new system and they can adapt accordingly. Compulsory migration is undesirable.

**CUAI:** The migration to the ULR should be optional. Since the existing service specific licenses are time bound, the operators are at ease to either migrate to a futuristic regime or stick to their business plans. A forced migration of all shall lead to the burden of change in business plan being forced upon the users.

**Bharti:** It should be optional to migrate to the new regime. Those operators, who desire to continue under the existing regime, should be permitted to do so. However, they should continue to be governed by the existing Service-Specific Licensing Regulations, in order to maintain a Level Playing Field and to ensure that no service provider is worse off.

Likewise, operators who desire to migrate to the Unified Licensing Regime, should be able to do so upon payment of the consolidated Entry/Registration Fee for the Unified License, which shall not be lower than the total amount paid by the existing operators for providing the services permitted there under.

**Reliance:** Choice of migration to unified licensing regime should be left to the operators. Those operators who do not opt for the migration to unified licensing regime will continue to provide services based on existing terms and conditions of the license till the validity of the license.

**ISPAI:** Migration should be optional and not compulsory.

6. **How should Internet telephony be treated in Unified Licensing Regime? Should Internet telephony without any restriction, be permitted under Unified License regime? If yes, how should it be permitted?**

**RailTel:** It is proposed that unified license regime should permit Internet telephony without any restriction. In case, an existing ISP operator wants to offer this service, it should be considered as a part of NLD license which has also been proposed under class license and all terms applicable to NLD be applied to this service.

**Estel:** Internet Telephony without any restriction should be permitted under the Class License on payment of USO Fee only.

**BPL:** All Telephony Services should be classified under Unified License. An ISP wanting to provide Internet Telephony must obtain a Unified License on payment of the prescribed registration charges. Internet telephony should be permitted from phone to phone subject to the prescribed QoS parameters being met by the service provider.

**TATA:** Internet telephony, without any restriction, should be allowed to ISPs (class licencees). There should not be any additional obligation, entry fee or rollout, imposed on the ISPs. The ISPs providing Internet telephony should be allowed PSTN connectivity. However an appropriate Interconnection regime, under which ISPs would pay applicable

interconnection charges, including termination charges and ADC, would need to be developed. The ISPs would also be required to pay the applicable revenue share for all voice calls terminating on the PSTN. This would be required to ensure level playing field with the Unified Licence operators.

**SPICE:** We believe that once a unified telecom license has been issued, then the licensee should be free to offer any or all types of services / facilities under that license using the technology / media of his choice. At the same time there is a need to ensure some minimum levels of QoS. Under these circumstances there should be no prohibition on Internet Telephony under a Unified Telecom License provided some minimum QoS parameters are laid down & followed by the licensees.

Thus while ISP have been categorized under the Class license, if an ISP wants to offer Internet Telephony, he will have to take a unified license & the terms & conditions of the same would apply to them.

**CUTS:** Internet telephony should be permitted under unified licence regime. There should be no restriction on the use of technology. It should be treated as normal voice telephony.

**CyberBazaar:** Internet Telephony or IP Telephony is an alternate technology TDM method of transport should be allowed going by the policy of being technology neutral. The issue would be what is the QoS/MoS of the calls and the subscriber should be entitled to know the quality he is getting for the price he is paying. The issue in IP Telephony is whether it is carried in a managed IP environment or on Public Internet. Regulator had rightly specified that calls transported by ILD operators using IP should be classified as below Toll Quality and provided at a lower cost. It is quite unfortunate that the regulator has done away with this requirement. In our experience TDM calls have the Highest Quality (Toll Quality), Managed IP providing close to Toll (not as good as Toll) and calls passed on Public Internet provide average quality. Quality of outbound ILD calls which were very good until recently have become unreliable and poor. Even though it is claimed that quality of calls in Managed IP is equal to TDM Toll Quality there is noticeable difference in quality in certain applications, which demand the highest voice quality. Therefore it is necessary that Three types of call quality should be available by choice with difference in pricing and subscriber's will choose the one most appropriate based on quality and price considerations. The issue about allowing ISP's to provide Internet Telephony would be addressed by requiring them to obtain an NLD license as revised after this consultation. Obtaining an NLD license should be no different from obtaining an ISP licenses, as Bank Guarantees required to be provided for an ISP are adequate to allow NLD operation. To run a NLD service using leased infrastructure from IP-I and IP-II operator's costs significantly less compared to the Entry Fee of NLD. ISP license can extend to cover NLD service. Current License and Bank Guarantee structure is highly prohibitive and Bank Guarantees are significant multiple of the entry fee. Suitable financial concessions have to be given to the few current NLD licensees to pave way for liberalization of NLD services. A similar approach needs to be taken for the ILD segment also as ISP with International Gateways might as well provide ILD services.

**COAI:**

- a. The Authority has itself recorded (on Page 14 of the Consultation Paper) that "Access and Long Distance licensees are now using the IP technology for provision of voice services. In countries where there is little distinction between the two services in terms of regulatory environment, the two forms of IP Telephony (using managed IP and Public Internet) are interchangeable. The Authority has also noted that "IP Telephony services, ....are increasingly becoming a part of normal voice telephony and may perhaps be regulated similarly."



- b. We also believe that once a unified telecom license has been issued, then the licensee should be free to offer any or all types of services / facilities under that license using the technology / media of his choice. Under these circumstances there should be no prohibition on Internet Telephony as long as it is offered under a Unified Telecom License with same terms and conditions so as to ensure level playing field.
- c. In this context, we believe that if Internet Telephony is to be allowed, it may be both desirable as well as necessary to move ISPs from the Class License category to the Unified License category, so as to prevent issues of enforcement that could arise if any ISPs offer Internet Telephony without acquiring a unified license.

**BSNL:** Internet telephony may continue to be treated under ISP licence with restrictions applicable as at present. However, use of IP networks (exclusive of internet) created by the licensed service providers within their service area for transportation of voice, data and multi media as different from Internet Telephony may continue to be in their domain.

**Thuraya:** No comment

**Hughes:** Internet Telephony should be permitted under Class License. Anything under Class License will also be available for Service Providers holding Unified License.

**Bharti Welfare Foundation:** Unrestricted Internet telephony should be permitted. PC to PC based does not required any further evaluation, what needs evaluation is PSTN integration of the same. In any case it needs to be strongly considered.

**CUAI:** Internet telephony should not be seen as competition to the ILD/NLD sectors. Internet telephony should be opened up even in the domestic sector in the interest of consumers.

**Bharti:** It is desirable that the principles of 'Level Playing Field' and 'No-Worse Off' should be strictly adhered to.

In the event, an Internet Service Provider is desirous of offering full fledged Voice Telephony through the Internet, it should be required to obtain a Unified License as stated in reply to Q.1 above.

**Reliance:** Although the objective behind the unified licensing is to allow operators to offer any service using any type of technology, the regulator should not overlook the very crucial criteria of level playing field. This yardstick was used while migrating basic operators to a unified access regime and should apply to all other types of services

Therefore, under the class license scope for internet telephony should continue to be restricted and only as presently permitted under the ISP license (i.e. no connectivity for PC to Phone in India). Any violation of the same should attract stiff penalties. If however, the regulator considers permission of unrestricted Internet telephony to ISPs, then service providers should be required to take a unified license and pay the relevant entry fee/registration charges as required by the unified license. They have to also accept and abide by all other terms and conditions of the unified license.

In this context, it would be relevant to take note of prevailing international practices relating to IP based voice telephony. In most countries, IP telephony is considered a full fledged voice based service and falls under the same category as any other voice telephony service. VoIP technologies, including those used to facilitate IP telephony, enable real-time delivery of voice and voice-based applications and as such permission to provide this service should entail similar entry fees / license fees.



ISPAI: Internet Telephony without any restriction should be permitted under the **Class Registration**. However, contribution towards the USO fund not exceeding 5% Adjusted Gross Revenue (AGR) accruing specifically from 'Internet Telephony' should be applicable.

7. **How the migration from service specific license to Unified Licensing Regime including surrender of any in-fructuous license, if any, should be handled?**

**RailTel:** It will be possible to adjust the license fee already paid for the various licenses by the telecom service provider for migrating to unified licensing regime and for any amount of extra bank guarantee, the licensee can be asked to reduce and the extra fixed entry fee paid under earlier license regime can be adjusted against license fee to be paid by the operator in subsequent years after reducing on pro-rata use of license.

**Estel:** After issue of new Unified License, the Service Specific License currently being used by various service providers should be considered to have become redundant and invalid.

**ABTO:** Migration from service specific license to Unified Licensing Regime should be handled as follows.

- a) Unified Access Service Providers: The existing Unified Access Service Providers desiring migration to Unified License under Unified Licensing Regime should not pay any additional fees for the services they wish to provide in their existing licensed area (as envisaged in our model proposed in our response to Q 1).
- b) Any service provider other than unified access service providers wishing to migrate to Unified License should pay additional entry fee matching the entry fee paid for by UASLs for provision of the services.
- c) NLDOs/ ILDOs: Any NLDO/ ILDO migrating to ULR should pay additional charge as per UASL for specific service area.

For the surrender of infructuous licenses as a result of Unified Licensing, suitable guidelines be framed by TRAI for the adjustment of excess entry fee, if any, paid by such licensees.

**BPL:** The existing service specific licensees should be permitted to surrender any infructuous licenses on migration to ULR. The prorata entry fee paid for the infructuous licenses for the unexpired part of the license should be refunded/adjusted towards future dues. In our assessment, the total amount of refund/future adjustments for the various infructuous licenses likely to be surrendered as well as the excess entry fee paid by the 1<sup>st</sup> and 2<sup>nd</sup> CMSPs and 1<sup>st</sup> set of 6 Basic Operators may not exceed Rs. 1,000 Crores. This will be a small price to be paid for resolving all LPF issues and having a smooth litigation free migration to the new ULR. This will give a great fillip to promotion of telecom services in the country and enable India to achieve teledensity level comparable to other developed countries.

**TATA:** All UASL licencees must be allowed to migrate automatically to the ULR, without any additional entry fees or roll-out obligations. They would retain their existing spectrum and future allocation limits.

Existing ILDOs should also be permitted to migrate to the ULR without any impact on entry fees or roll-out obligations. They would however, not receive any spectrum automatically. They would be eligible, though, to buy spectrum based on the applicable spectrum policy.

Existing NLDOs should be permitted to migrate to the ULR and be eligible for purchasing spectrum. They would however need to be compensated for the very high entry fees paid<sup>22</sup>

by them in the past; this could be in the form of reduction in revenue share for a period of time (similar to the concessions granted to cellular players recently), say a 2% reduction for a 7 year period. The roll-out obligations of the migrating NLDOs should be revised to match the obligations of the ULR.

The new regime should allow for surrender of any in-fructuous Licence. The proposed ULR should allow existing NLDOs and ILDOs to surrender their license against the migration of Group and Associate UASL companies to the Unified License regime. Entry Fee and bank guarantee should be setoff against the commitments of Group and Associate companies under the Unified License Regime.

**SPICE:** The existing licenses have been acquired by the service providers at a significant cost and for a particular period of time, where as under new Unified regime same service would extended under one single license. It needs to be ensured that such operators are 'no-worse-off' as a result of a midway change in the policy & licensing regime. It is therefore important for the Authority to propose a suitable mechanism through which such operators can surrender their surplus licenses, where in the licensee may get relief in terms of lower annual license fee, easier rollout obligations etc.

**CUTS** Since unified licensing is kept optional, migration can be done at the time of renewal of existing licenses or when the operator applies for a unified licence.

**CyberBazaar:** Surrender of in-fructuous license should be permitted as in case of Unified Access License allowed mobility to BSO's and made licenses held by both Cellular and Basic License in fructuous. Refund may be based on the numbers of years of the in fructuous license held. Only last license taken may be considered for such an option. Similarly adjustments have to be made NLD and ILD licensees when announcing a liberalized regime considering the first mover advantage they have enjoyed.

**COAI:**

- a. The Authority has rightly noted that with the introduction of a unified licensing regime there will definitely be cases where operators who have acquired separate licenses for different telecom services would end up with surplus / redundant / in-fructuous licenses as provision of all telecom services would then be possible under a single license.
- b. The Authority must take note of the fact that these licenses have been acquired by the service providers at a significant value and for a particular period of time. We believe that Authority must ensure that such operators are no-worse-off as a result of a midway change in the policy & licensing regime. The principle / objective of No-worse off has also been enunciated by the Authority in this Consultation Paper. It is therefore important for the Authority to propose a suitable mechanism through which such operators can surrender their in-fructuous licenses
- c. The Authority has made some suggestions in this regard in Para 8.3 wherein the Authority has stated that compensation for entry fee paid should not be seen in isolation as under the unified licensing regime, the licensee may get relief in terms of lower annual license fee, easier rollout obligations, total freedom to offer any type of service, etc.
- d. In this context, we would also like to draw the attention of the Authority to the approach taken by the United Kingdom upon the introduction of the Communications Act 2003, which abolished licensing and introduced a simple authorization regime. Clause 147 of the Communications Act provides for repeal of certain provisions of the Telecommunications Act 1984. The Explanatory Notes prepared by the Department of Trade & Industry clarify that as a result of the abolition of telecommunications licensing it is necessary to make certain savings and transitional provisions which are contained in Schedule 18 of the Act.

Para 12 of Schedule 18 – (Transitional Provisions) on Charges under Telecommunications Act licences reads as below:

"12 (1) Where any amount is required by a licence under section 7 of the 1984 Act to be paid to the Director in respect of a period beginning before the abolition of licensing, that liability is to have effect after the abolition of licensing as a liability to pay to OFCOM so much of that amount as does not relate to times after the abolition of licensing.

(2) For the purpose of determining how much of an amount payable to the Director relates to times after the abolition of licensing, an apportionment is to be made according to how much of that period had expired before the abolition of licensing." (emphasis supplied)

- e. The above clause clearly provides that the liability of the licensee is to pay the Director only that amount that relates to the period prior to abolition of licensing and that this amount would be determined on the basis of the period that has elapsed before the abolition of licensing.
- f. Fitting the above provision to the Indian environment, it would imply that if a licensee has paid say Rs. 100 crores for a 20-year license and that license becomes in-fructuous after say 10 years, then the pro-rata entry fee for the period of 10 years should be refunded / adjusted against the future dues of the licensee. In line with the above, we would therefore like to suggest that the entry fee paid by the service provider could be refunded / adjusted on a pro-rata basis for the un-expired duration of the license.
- g. It is also proposed that a similar approach could be adopted for adjustment of excess entry fees paid by service providers under the existing licensing regime.

**BSNL:** Surrender of the Licence may be dealt with as per the applicable terms and conditions prescribed in the respective Licence Agreements without diluting their obligations.

**MTROA:** For the PMRTS industry we do not envisage a possibility of any Licence being rendered infructuous as a result of migration to the Unified Licensing Regime.

**Hughes:** No comment.

**Bharti Welfare Foundation:** The step I of the unification of access licenses recommended by the TRAI and adapted by the DoT answers many issues, of paramount importance is the fact that no regulatory disadvantage should accrue to the standalone licensee.

**CUAI:**

- (1) The migration should be voluntary and not compulsory.
- (2) The market forces will play their own role towards making the licenses in fructuous.

**Bharti:** Migration to the Unified Licensing Regime:

The migration to the Unified Licensing Regime should be optional. Those operators who desire to continue as Service-Specific Licensees, should be allowed to do so. Operators who want to migrate to the new regime, should be required to pay the requisite Entry/Registration Fee, which shall be the sum of the Entry Fee paid by existing operators for providing Access, Long Distance and VSAT services.

Surrender of Infructuous Licenses:

We have already seen that with the introduction of Unified Access Services License, some Service-Specific Licenses of existing operators have become surplus. It is therefore imperative that a suitable "Exit Policy" be formulated to allow existing operators to surrender their licenses which have become infructuous upon migration to the new regime. Accordingly, suitable Exit Policy needs to be finalised which provides for surrender of

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surplus/redundant Licenses and spectrum.

Such a Policy specifically needs to take into account the following:

- a) Refund of proportionate Entry Fees pertaining to the unexpired portion of the License;
- b) Release of the Bank Guarantees furnished under the License;
- c) Transfer of Pols of the surrendered License to the Licensee to whom the subscribers are to be migrated;
- d) Return of spectrum allocated to the Licensee

**Reliance:** As explained in response to Q3, if any existing service provider opts for migration to a unified license regime by submitting the 'request for migration' letter, the new license should be awarded subject to payment of difference in the entry fee for the unified license and the existing license.

In case an existing service provider feels that the current license has become infructuous on account of the unified license regime, the Authority should recommend a suitable mechanism for the surrender of such licenses. Provisions should be made for adjustment of the entry fee paid by such licensees against the new entry fee (or against the revenue share payable) or even for a refund of the excess entry fee if any – based on the remaining period of the license.

Here, we would like to draw your attention to the specific case of NLD licenses and the issue of compensation for the entry fee paid by the NLDO. There is a view in the consultation paper that emphasizes the early entry advantage into the market and weighs this against the compensation to be given.

However, we feel that such a view needs reconsideration particularly because recent changes in the regulatory / license conditions have adversely impacted the overall viability of the NLD business right from its entry into the market.

In order to create facilities based competition the NLD license obliges the Licensee to establish its own infrastructure with the most rigorous rollout obligations. To ensure that only serious players undertake such obligations, the NLD entry fee (Rs 100 crs) was intentionally kept at a higher level with very high bank guarantees (Rs 400 crs). The NLDO has been permitted to operate as a retail as well as wholesale carrier. However, both these revenue streams have been badly affected as a result of various factors listed out below.

On the retail front, inordinate delays in implementation of Carrier Access Code (CAC) has not just deprived consumers of choice but also severely affected the business case of independent NLDOs. Rather than being able to operate as independent long distance carriers offering long distance services to end-users, NLDOs are today totally at the mercy of Access Providers to pickup NLD calls – because the customer cannot dial CAC to access the long distance operator of his/her choice.

On the wholesale business front, a key NLDO revenue stream, the domestic leg of International calls, which was the exclusive domain of NLD players has been given away to ILD operators as part of the ILD license which was issued subsequently.

In addition, NLDOs are required to set up POIs in each SDCA. This combined with the uncompetitive practices of the incumbent, non-availability of signaling links, absence of CDR based billing, irregular billing by CDOT exchanges etc. has caused unending delays and problems for all private NLDOs including the opening up of POIs for commercial traffic. Moreover, the IUC regulation has taken away the flexibility of NLDOs to package their

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rates. NLDOs are forced to carry traffic at rates which are not sufficient even for opex recovery.

It is unlikely that there will be any more entrants in the NLD segment because of these serious constraints. We request TRAI therefore to take all these realities into consideration while deciding on any policy issue such as permitting direct connectivity for access providers or refund for in-fructuous licenses.

**ISPAI:** After issue of new Unified License, the Service Specific License currently being used by various service providers should be considered to have become redundant and invalid.

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## Registration Charges/Entry Fee/Authorisation Charges

8. **Should the Registration Charge be one time charge or recurring annual charge?**

**RailTel:** The registration charges for class license and for Unified License should be one time. However, for class license, it should be nominal.

**VSAI:** We propose NIL registration charges

**Estel:** For the Class Licensees such as ISP including Internet Telephony, the existing practice of no registration charges should continue.

**SHYAM:** Answers for Questions 8 to 16

Unified Licensing Regime should follow the same pattern of entry fee and revenue sharing as being applied to 4<sup>th</sup> cellular License regime. Adjustments should be allowed for existing operators accordingly.

Registration fee should be a function of entry fees paid by existing operators. Level playing field should be maintained between existing service providers and those who enter telecom market. Under Unified Licensing regime.

The existing Telecom Service providers should not be worse off in the Unified Licensing regime.

**ABTO:** Registration charges or entry fee should be a one time charge at the time of entry to the Unified Licensing regime.

**BPL:** The registration/authorisation charge should be one time charge and not annual recurring charge. However, there should be annual license fee as %age of AGR, which will cover contribution to USO fund and the recurring cost of administration of licenses.

**SPICE:** Registration, as the very name suggests is a one-time process and should therefore attract only a single one-time charge. The annual recurring charges have been separately specified by the Authority and will include a contribution towards USO and the cost of administrating & regulating the sector.

**CUTS:** It should be a recurring annual charge

**CyberBazaar:** It should be one time registration and an annual % of AGR and minimum fee cover administrative costs.

**COAI:** Registration, as the very name suggests is a one-time process and should therefore attract only a single one-time charge. The annual recurring charges have been separately specified by the Authority and will include a contribution towards USO and the cost of administrating & regulating the sector.

**BSNL:** One time registration charge in the form of entry fee may be taken. In addition, recurring annual charge in the form of licence fee may continue to be levied as at present.

**Palakkad District Consumers' Association, Kerala:**

Answer for 8 to 16:

We would like to suggest that the entry fee paid by the service provider could be refunded / adjusted on a pro-rata basis for the un-expired duration of the license. It is also proposed that a similar approach could be adopted for adjustment of excess entry fees paid by service providers under the existing licensing regime, provided the consumers interests

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are not affected.. The Registration Charges should also include the charges for number allocation and a nominal fee to cover the provision of all non-spectrum based services.

**MTROA:**

Answers for 8 to 16:

Registration charges/Entry fee/Authorisation charges :

For a Class License	:	Nominal
For an FBO License	:	At par with Basic, Cellular & UAS

We agree with the Approach 1 for deriving registration charges from existing entry fees levels for FBO licences

The circle wise additions for the NLD & ILD component may be calculated using an objective uniformly applicable to all, basis.

The registration charge should be a one time charge and should not be dependent on the extent of the geographic coverage for a Class Licence. For FBO Licenses, it should be based circle wise, today.

Niche Operators, including PMRTS, Paging, Operators for Rural, Remote and Less Developed areas should form a part of the Class Licensees list for whom the Registration charges should be nominal.

**Thuraya:** The Registration charge be a one time charge.

**Hughes:** It should be one time.

**Orissa Consumer's Association:**

Answer for 8 to 16

Registration Charges:

- (A) It should be the nominal charges.
- (B) For non-facility based operator be lowest and higher for facility based operators.
- (C) It should be additive depending upon the service provided by service providers.

Entry Fees:

- (A) It should be divided into Registration charges and spectrum charges. Registration charges shall be same that of existing and new entrant but for the new entrant, be given incentive providing him to pay registration fees by installments for initial period of two years.
- (B) Inter circle connectivity and interconnectivity between different operators geographical area be kept in mind while considering the issue.
- (C) Service area should be specified for different services and that too for a minimum area covering i.e. non-remmunarative and rural area & that operators are to fulfill universal service obligations.
- (D) Existing service area, inter circle connectivity to unified access licensees with flexibility be retained.  
Competition providing quality service with affordable price in all geographical area of the country should be objected to in deciding all the issue.
- (E) Class license should be a sub set of unified license.

**Bharti Welfare Foundation:** Nominal recurring charge.

**CUAI:**

- (1) The Charges for licensing should be minimal and must not be a means to fund the state exchequer.

- (2) There should be a one-time entry fees and a small recurring charge.

**Bharti:**

Answers for 8 to 13:

In our opinion, the Registration Charge/Entry Fees should continue to be a One-Time Charge.

The Registration Charge for the Unified License may be calculated in either of the two ways detailed below:

- (i) In line with the principles of 'Level Playing Field' and 'No-Worse Off', the Registration Charge should be kept at the current level of Entry Fee for all the services that may be offered under the Unified License. Accordingly, the Registration Charge for a Unified License should be the sum of the existing Entry Fee for Unified Access Services Licenses for all 23 service areas put together + Entry Fee for NLD services + Entry Fee for ILD services + Entry Fee for VSAT or any other service which may be included under the Unified License.
- (ii) Alternatively, a nominal Entry Fee may be charged, to cover the costs of administration of the Licensor. However, in this scenario, in order to maintain a level playing field for existing Licensees and in consonance with the principle of "No-Worse Off", it shall become imperative that the existing Licensees be refunded Entry Fee paid by them so as to ensure parity between old and new licensees.

**Reliance:** Entry fee or Registration Charge should be a one time charge.

**ISPAI:** For the operators under **Class Registration** such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue.

9. **What should be the basis of deciding the Registration Charges?**

**RailTel:** The amount of the registration charges should depend upon total expected revenue from the services in geographical area and considering atleast 4 to 5 operators to be offering the services with 50% share for incumbent and remaining 50% for other operators. Based on this value, the registration charges can be defined as 10% of the per annual expected revenue for operator.

**Estel:** The registration charges should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**ABTO:** The primary objective of fixing the registration charges or entry fee for Unified License should be to ensure that existing operators who have paid certain amounts are no worse off than the new entrants. The principles for entry should be uniform.

As such, the first approach suggested by TRAI in point 6 of Chapter 3 is most suited for determination of entry fee. That is:

Registration Charges = (Entry Fee paid by Existing UASLs – Spectrum Charges) + (apportioned NLD and ILD entry Fee for the service area selected)

In case of nationwide NLD services, registration charges / entry fee should not be less than the license fee paid by the existing NLDOs. However, if the registration charges / entry fees paid by existing NLDOs is more, then suitable mechanism should be there to compensate the existing NLDOs.



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**BPL:** Registration/Authorisation charges should be nominal so as to cover administrative expenses for processing of application and issuing of authorisation.

**TATA:** The Registration Charge for new entrants in Unified Licence should be a one time charge to cover the cost of administering and monitoring the Licences granted from time to time and also to deter non-serious players from taking the Unified Licence. The Registration Charge could be say, Rs 25 crores. However, there should be separate charges specified for obtaining spectrum for offering mobile services. The pricing of spectrum could be benchmarked to the entry fees paid by the UASL / 4<sup>th</sup> Cellular Licensees. Existing UASL licensees should not be required to pay any additional fee for migrating to Unified Licence.

**SPICE:** Registration charges under a unified licensing regime must be only a nominal fee for recovering the charges / costs involved in processing / issuing the unified telecom license.

**CUTS:** Normal registration charge based on administrative expenses

**CyberBazaar:** To recover costs of administering, regulating and issuing licenses.

**COAI:** Registration charges under a unified licensing regime must be only a nominal fee for recovering the charges / costs involved in processing / issuing the unified telecom license. The Registration Charges should also include the charges for number allocation.

**BSNL:** Depending upon the category of licence, the entry fee may be prescribed. For circle based UASL, the entry fee (Registration charges) may be as applicable at present. For all India based unified licensee, the entry fee may be a sum of entry fees paid by UASL for all circles plus the entry fee payable by NLD and ILD operator.

**Thuraya:** The Registration Charge should be developed on the basis of recovering only administrative charges associated with the registration of the telecom operators.

**Hughes:** The coverage should essentially be categorized maximum to three --- Circle, National and International. The registration charges should be based on the coverage area for Unified License.

**Bharti Welfare Foundation:** It should not be taxing for the licensee because the burden ultimately is passed on to the consumer. The charges should be bare minimum.

**CUAI:**

- (1) Size of operations: in terms of the total revenues of the operators.
- (2) Compliance of the roll out obligations: Operators not fulfilling their obligations should be subjected to a higher charge.

**Reliance:**

Following principles should be followed for deciding the registration charges

- Level playing field is maintained for existing telecom operators
- Existing operator should not be required to pay any additional fee for the service which he is already providing in the current regime
- Charges should be cumulative / additive of present entry fee charges for each service that is intended to be covered under the new Unified licensee (i.e. similar to the first approach under Approach I as suggested in the consultation paper)

- (40)
- Since in case of existing license, the spectrum is linked to entry fee paid by the operators, the spectrum fee should not be delinked from the entry fee. Thus there should not be any separate entry fee for the spectrum and the same should not be deducted while calculating cumulative entry fee / registration charge for the unified license.
  - Service provider should be required to pay entire entry fee irrespective of number of services intended to be offered by him i.e. under unified license the entry fee should not be apportioned for each service
  - For class license, the entry fee can be minimal as per existing practice

**ISPAI:** Ideally, the registration charge on the Unified Licensees should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**10. Whether Registration Charges should be dependent on the extent of geographical coverage?**

**RailTel:** In case, it is decided to consider the formula suggested in item No.9, the registration charges will depend on the area of geographical coverage.

**Estel:** For the Class Licensees such as ISP including Internet Telephony, the existing practice of no registration charges should continue.

**ABTO:** The registration charges or entry fee should be dependent on the extent of geographical coverage/ service area. For all services under ULR, service area should be on telecom circle basis.

**BPL:** Answer for 10 & 11

In our opinion, there should be only one 'All India Unified License'. Therefore, the registration charges should not be dependent on the extent of the geographical coverage. The registration charges should also not be dependent on the number and type of services to be provided under Unified License and Class License.

**TATA:** It is proposed that the Unified Licence be effectively an all India licence and therefore, the Registration Charge for new entrants of say, Rs 25 crores would be applicable to all licences, irrespective of the extent of geographical coverage.

**SPICE:** The principle for computing the Registration charges has been submitted above as a nominal fee for recovering the costs involved in processing / issuing the unified telecom license. Based on the above principles it is likely that a license for a larger footprint (greater number of service areas) may be nominally higher than that applicable for a single / fewer number of service areas.

**CUTS:** No

**CyberBazaar:** YES

**COAI:** The principle for computing the Registration charges has been submitted above as a nominal fee for recovering the costs involved in processing / issuing the unified telecom license. This principle should be adhered to irrespective of the number of service areas for which the license is being issued. Based on the above principles, it may be that the Registration Charges for a larger footprint (greater number of service areas) are nominally higher than that applicable for a single / fewer number of service areas.

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**BSNL:** As submitted above, there should be only two type of licensees i.e. Circle based UASL or All India based Unified Telecom Service Licensee and the entry fee may be calculated as submitted in para 9 above.

**Thuraya:** The Registration Charges should be independent of the geographical coverage at least in the case of satellite services in general and the GMPCS service in particular. The Satellite including the GMPCS services are provided on a country wide basis irrespective of the terrain and urban and rural divide.

**Hughes:** Answer for 10 to 11

Please refer Annexure II. Yes for Unified License Services. However for Class Licenses, it should not be coverage based or number of service based.

**Bharti Welfare Foundation:** Yes, the size of the telecom business and its reach, revenues are governed by the geographical coverage and so must be the regn. Charges.

**CUAI:** The charges must take consideration the presence of the operator in states/circles or nationwide.

**Reliance:** Yes the Registration charge or entry fee should be dependent on the extent of geographical coverage.

In this respect, the following licensing hierarchy to be followed for the implementation of unified license.

**National Level Unified license** – Under this license the service provider will be able to offer all services at national level i.e. Basic, Cellular, UAS, NLD, ILD etc. The entry fee for this category will be equal to the (Entry fee applicable for existing UASL for all telecom circles in India + Entry Fee applicable for NLDO and ILDO). In addition Licensees who are licensed as unified licensee should be able to offer all services that Services Class Licensee can offer.

**Circle level Unified Access License** - Under this license the service provider will be able to offer all access services at circle level i.e. Basic, Cellular, UAS. The entry fee for this category will be equal to the entry fee applicable for existing UASL in the particular circle

Thus under unified licensing the scope of NLD and ILD service should be covered only under national level unified license and not to be apportioned on the circle level.

**ISPAI:** For the operators under **Class Registration** such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue

**11. Whether Registration Charge should be dependent on the number and type of services being proposed to be provided by the service provider?**

**RailTel:** It is suggested that registration charges should be defined based on the type of each service and as such it will depend on number and type of service being proposed to be provided by the service provider.

**Estel:** The registration charges should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**ABTO:** No. The registration charges or entry fee should not be dependent on the number and type of services to be provided by the service provider in his service area. It should be only for acquiring the license.

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In order to ensure no-worse off situation to existing players and a level playing field, it is proposed that the registration charges should be equal to the amount paid by the Unified Access Service licensees for the respective service area.

As such there should be no additional payment by UASLs for migration to ULR.

**TATA:** No. The Unified Licence allows the licensee to offer any of the services, and the licensee may decide to add or subtract the number of services that are being offered at any given time. The Registration Charge should be independent of number and type of services being offered.

**SPICE:** Registration charges should only cover the cost of processing / issuing the unified telecom. This charge should be identical irrespective of the number / categories of services by a telecom operator in a geographical area. Having additive registration charges for each individual service/facility defeats the concept of a unification of telecom licenses and would in fact be no different from the present regime where each additional service / facility is separately priced. However this would not include cost of resources such as spectrum etc.

**CUTS:** No

**CyberBazaar:** NO.

**COAI:** Registration charges should only cover the cost of processing / issuing the unified telecom. This charge should be identical irrespective of the number / categories of services / facilities being offered by a telecom operator in a geographical area. Having additive registration charges for each individual service/facility defeats the raison d'être of a unified telecom license and would in fact be no different from the present regime where each additional service / facility is separately priced.

**BSNL:** Our comments as above may be referred in this context.

**Thuraya:** The Registration Charge should be levied on a telecom operator that wants to provide a certain type of telecom service e.g., a GMPCS Service Provider will be registered as a company using GMPCS technology to provide telecom services such as voice, fax, data (low, medium and high rate), SMS, etc.

**Bharti Welfare Foundation:** No, This will create anomalous situation. The slabs for charges can be made according to the turnover of the operator.

**CUAI:** No. If charges were to be paid for rolling out different services separately, that would be anomalous situation in a unified licensing regime, Regn. Charge can be collected on the basis of the size of the operator rather than the services offered.

**Reliance:** No, the registration charge should not be dependent on the number and type of services being proposed to be provided by the service provider.

Otherwise, such a move will lead to selection for delivery of only high revenue services by the operators and avoiding all other terms and conditions as applicable for the license.

**ISPAI:** Ideally, the registration charge on the Unified Licensees should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

12. Whether the Registration Charges should be a function of entry fees paid by the existing operators. If yes, then how should these charges be calculated?

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**RailTel:** There should be no linkage of registration charges for unified license with the entry fee paid by the existing operators. The existing operator already has 1st mover advantage and as such there is no need to co-relate this with the existing entry fee.

**Estel:** The registration charges should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**ABTO:** The registration charges or entry fees for Unified License should be at the level of entry fee paid by the existing UAS operators.

a) New unified licensees: In order to ensure no-worse off, level playing field, it is proposed that the registration charges or entry fees for Unified License should not be based on cumulative charges of the existing services and be fixed at the level of 4<sup>th</sup> cellular operator's entry fee for the respective service area and wherever fourth cellular operator was not there, the entry fee paid by the existing basic service operator should form the basis. However, the Unified Licensee should be free to offer any service(s) of his choice in the service area.

b) Migrating UASLs: BSOs have paid enormous amounts of fees for migration to UAS regime. As such UASLs should not be subjected to any further payment for migration to Unified License.

**Class licensees:** These service providers should pay nominal/token registration charges to provide the respective service as existing today.

**BPL:** Answer for 12 & 13

No, the registration charges should not be the function of the entry fee paid by the existing operators. The charges should also not be cumulative charges of the existing services for different service areas.

**TATA:** No. The Registration Charge should be independent of the entry fees paid by the existing operators.

**SPICE:** We submit that when the key objective is 'Free Growth of new applications & services in ICT area', there is need to have more & more competition which is possible if there are minimum entry barriers. So as a basic principle the Registration charges should not be a function of the huge and varied entry fees paid by the existing service providers. These should be separately and independently calculated as per the principles outlined above i.e. a nominal fee for recovering the charges / costs involved in processing / issuing the unified telecom license.

However, for the sake of level playing field between the licensees under old and new regimes, the entry fees paid under the existing / old regime may need to be adjusted through an appropriate mechanism. Some views / proposals such as lower license fee, easier roll out conditions etc in this regard have been given under para 7 above.

**CUTS:** No

**CyberBazaar:** NO. The entry fees paid by existing operators for non-spectrum based services (BSO) is high and should be reduced to encourage growth of industry by allowing new players.

**COAI:**

- a. We most emphatically submit that Registration charges should not be a function of the huge and varied entry fees paid by the existing service providers. These should be separately and independently calculated as per the principles outlined above i.e. a

nominal fee for recovering the charges / costs involved in processing / issuing the unified telecom license.

- b. However, for the sake of level playing field between the licensees under old and new regimes, the entry fees paid under the existing / old regime may need to be adjusted through an appropriate mechanism. Some views / proposals in this regard have been given under Para 7 above.

**BSNL:** Yes. Our comments as above may be referred.

**Thuraya:** No comment

**Hughes:** Please refer Annexure II.

**Bharti Welfare Foundation:** Yes, In proportion to the turnover of each of the carriers.

**CUAI:** No. The same shall entail increased costs and ultimate burden on the consumers.

**Reliance:** Yes, Charges should be cumulative of present charges paid by the existing operators. The options for this with details are explained under response for Q10.

**ISPAI:** Ideally, the registration charge on the Unified Licensees should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government. Anyway, for the operators under **Class Registration** such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue.

13. **Should the Registration Charges be cumulative charges of the existing services and service area and be reduced to a nominal value say after a period of 3-5 years? If yes, what should be the level/basis of calculating this nominal fee and what should be the time period after which the Registration Charges reduces to nominal fee?**

**RailTel:** This has already been covered in reply to previous items.

**Estel:** The registration charges should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**ABTO:** The registration charges or entry fee for Unified License should not be based on cumulative charges but as suggested earlier.

These registration charges should continue to apply and not be reduced to a nominal value after a period of 3 – 5 years.

**TATA:** Not applicable, based on the above responses.

**SPICE:** The drawbacks of the phased approach have already been given in para 4 above. Further the suggestion of levying high cumulative charges is not desirable because it would make this entire consultation process irrelevant as even today, an operator can acquire any license by paying the prescribed fee. Costing a unified telecom license at the cumulative price would not serve any purpose but would in fact actively discourage any operator from moving to the new regime. This would be contrary to the key objectives enshrined in this paper by the Authority.

**CUTS:** No

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**CyberBazaar:** It should be brought to a nominal fee as soon as possible in the interest of the consumers and industry. If this is going to cause an anomaly with existing license it has to be handled by suitably compensating them considering the first mover advantage they have enjoyed.

**COAI:**

- a. As submitted in pre-paras, the 2<sup>nd</sup> phase of the move towards unified telecom licensing should be completed at one go and not be split into further phases. The drawbacks of further fragmentation of the process to introduce unified licensing have already been given in Para 4 above.
- b. Further, the suggestion of levying high cumulative charges is not desirable because it would make this entire consultation process irrelevant, as even today, an operator can acquire any license by paying the prescribed fee. Costing a unified telecom license at the cumulative price would not serve any purpose but would in fact actively discourage any operator from moving to the new regime. This would also be against the principles and key objectives of ease of entry, nominal fees, etc., enunciated by the Authority in Chapter 2 of its Consultation Paper.

**BSNL:** Our comments as above may be referred.

**Thuraya:** In case of the GMPCS service, as no License has been granted till now, it is recommended and proposed that the registration charge for the GMPCS service be reduced to a nominal value.

**Hughes:** Please refer Annexure II.

**Bharti Welfare Foundation:** It should be nominal. A fixed fee for the first year and based on the turnover slab in the successive years.

**CUAI:** The Registration charges should be ONLY ONE TIME. The recurring charges should be fixed as USO plus admn. Charges. The principle of cumulative charges shall again lead to increased burden for the subscribers and is against the fundamentals mentioned in the consultation paper itself.

**Reliance:** The registration charges as suggested above should continue to apply and not be reduced in future to maintain level playing field.

**ISPAI:** Ideally, the registration charge on the Unified Licensees should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government. Anyway, for the operators under **Class Registration** such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue.

**14. If Class Licensing is adopted what should be the level of Registration Charges for these Licensees?**

**RailTel:** The registration charges for class license should be nominal with some BG. This can be on the lines of ISP license conditions existing presently.

**Estel:** The registration charges should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government.

**ABTO:** The level of registration charges for class licensees should be nominal/ token as existing today for the services proposed to be under class license.

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**BPL:** The registration charges for Class License should be very nominal and not more than 10% of the registration charges for a Unified License.

**TATA:** The Registration charge for Class Licence should be kept zero, in line with the entry fee currently charged for these services. This would also have a positive impact on the viability of these services, and enable greater level of participation by smaller players.

**SPICE:** Because of the minimal regulation involved in the services classified under the Class License it is expected and submitted that the Registration charges to cover the cost of processing and issuing this license would be very nominal.

**CyberBazaar:** Nominal 0.5% of AGR or 20,000 per LDCA.

**COAI:** Because of the minimal regulation involved in the services classified under the Class License it is expected and submitted that the Registration Charges to cover the cost of processing and issuing this license should be very nominal. In this context it may be noted that the Registration Charges / Processing Fees prescribed for IP-I & IP-II categories are fixed at Rs. 5,000 and Rs. 10,000 respectively.

**BSNL:** BSNL is not in favour of a class licence. However, if class licensing is adopted, the registration charges (entry fee) may be equal to the sum of entry fee being paid at present by all such licensees, which are proposed to be covered under the class licence.

**Thuraya:** The Class License is normally not subject to any Registration Charges.

**Hughes:** Please refer Annexure II – The registration fee for Class Licenses should be NIL

**Bharti Welfare Foundation:** Bare minimum.

**CUAI:** That should be absolutely minimal. As upto Rs 1000/ only.

**Bharti:** In our opinion, the Registration Charge for a Class License should be a nominal amount and the same may be retained at the existing level.

**Reliance:** The level of registration charges for class licensees should be nominal as existing today for the types of services proposed under class license.

**ISPAI:** Ideally, the registration charge on the Unified Licensees should actually reflect the cost of processing of the registration application and should not be treated as a source of revenue for the Government. Anyway, for the operators under **Class Registration** such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue.

15. If niche operators especially for Rural, Remote and Less developed service areas are licensed say at LDCA/SDCA level, in that case what should be the registration charges for such operators. How should rural service area be defined? Whether niche operators should be allowed to roll out its services in LDCC's/SDCC's which are urban?

**RailTel:** There should not be any registration charges for Niche operator and these services should be considered under class license to offer the services in rural area. For defining areas in this, we can work out the growth of tele density in various LDCAs and bottom 50% should be considered under such category.



Niche operators can be allowed to roll out services in LDCA which are defined as rural service areas as per above definition. In case, they want to offer services in other LDCAs, they can be asked to take unified license.

**ABTO:** Niche operators as explained earlier would have to fall in the Class license category and the same service area criteria can apply. Since registration and license fee is proposed to be nominal / token for these types of services, it would not matter whether these were licensed in rural or urban areas.

However, the niche operators must be clearly defined and there should be set of rules for interconnection, scope of services, entry fee etc.

**USF:** Registration charges may be recovered on a proportionate basis linked to the license fee for the Unified License for a given service area related to the no. of SDCAs in the service area for which the license is sought by the niche operator.

Priority may be given for assigning the Spectrum to niche operators serving the rural/remote and less developed service areas. The Spectrum charges may be related to bandwidth allotted to the Rural Service Provider.

Rural Service Area can be defined in terms of tele density, net cost and/or "Rural Area" in terms of the Census or otherwise.

Niche operators should not be allowed to roll out their service in urban LDCCs/SDCCs. Their roll out obligation should be for all rural SDCAs in the Service Area for which they have obtained license.

**BPL:** In our opinion, the concept of having niche operators for rural, remote and the less developed service areas, to be licensed on LDCA/SDCA level, is impractical. Niche operators will not be viable and even if a few operators venture to acquire such licenses for a few areas, they may not survive for too long. This will also create enormous problems in interconnection with other unified operators in the service area, particularly the mobile operators who may be having one or two MSCs for serving the entire circle, located far away from the concerned LDCA/SDCA.

**TATA:** The Registration Charge could be zero for niche operators who propose to offer services in Rural, Remote and Less developed service areas and are Licensed only at the LDCA / SDCA level. However, if mobility spectrum is being offered to these operators, the TRAI must prescribe an appropriate fee for such spectrum. Further, the niche operators should not be allowed to roll out services in Urban areas.

The term niche operator, the scope of service and other terms such as Licence fee, and Interconnection as applicable to Niche operators, should be clearly defined with a view to avoid any misuse of this facility.

**SPICE:** The provision of services in rural remote and less developed areas is an important policy objective that must be addressed under the new regime. This objective could be met by introducing a category of niche operators as proposed by the Authority. Niche operators may be allowed to operate at the LDCA/ SDCA level as this approach will help attract more players in this segment. Further, the niche operators will also have the benefit of getting reimbursements from the USO Fund.

However these niche operators must be subject to the following conditions:

- They must be restricted to operate only in rural areas, which should be the Rural SDCAs as defined under the Census. Unless this is done, it is quite likely that operators may designate themselves as niche operators and focus on the lucrative SDCAs in high potential urban areas, which would not meet objective of provision of Universal access.

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- As separately licensed operators, till 'specific spectrum bands are earmarked for allocation' the niche operators should provide only fixed and internet telephony services as under existing spectrum policy, the provision of wireless services by niche operators would raise concerns about both interference, enforcement as well as optimal utilization of radio spectrum.
  - However the wireless services can be provided by niche operators only as franchisees of the unified licensees of the respective service areas.

**CUTS:** Registration charge for niche operators is not necessary. Rural service area should be defined on the basis of tele-density. Niche operators should be allowed to spread out their services subject to meeting their rollout obligations.

**CyberBazaar:** Rural operation without allowing roll out in the adjoining LDCC/SDCC would not serve much purpose or interest with investors. A significant portion of communication of rural areas happens with the LDCC/SDCC they belong to. Economic advantages work better than roll out obligations, which may not be effectively enforceable. A higher origination/termination fee to rural exchanges can compensate the lower rental realization. Operators who are only urban centric will loose out if they do not penetrate to rural areas.

**COAI:**

- a. We believe that the provision of services in rural, remote and less developed areas is an important policy objective that must be addressed under the new regime.
- b. The introduction of Niche Operators may be considered, but only for Rural SDCAs as defined under the Census. Unless this is done, it is quite likely that operators may designate themselves as niche operators and focus on the lucrative SDCAS in high potential urban areas.
- c. Niche Operators may provide Fixed & Internet Telephony services under a separate Class License. However wireless services should only be provided through a franchise from a unified licensee because of issues related to enforcement and optimal utilization of spectrum.
- d. By virtue of operating in rural areas, niche operators would also be entitled to reimbursements from USO Fund.
- e. As already submitted in pre-paras, because of the minimal regulation involved in the services classified under the Class License, the Registration Charges to cover the cost of processing and issuing this license should be very nominal.

**BSNL:** In the telecom sector volumes drive the cost down and make the services competitive. It is not possible for the small niche operators to sustain their operations in this era of open competition. Government has recently approved mergers and acquisitions to enable small stand alone operators to exit so that the merged entity can achieve economies of scale for providing cost effective state of the art services. By allowing niche operators to roll out their services in LDCCs/SDCCs, Government will be creating only liabilities in the form of sick operators who may be required to be bailed out by the Government at high cost.

**Midas:** The registration charges for Niche operators should be kept minimum and if possible should be zero. Niche operators should be allowed to roll out its services in LDCC's/SDCC's if the BSO's consider them to be non lucrative.

Rural Service Area could be best defined based on customer's point of access in rural area.

The RSP can set up operation anywhere - but at any time must have at least 80% of its customers in villages of population less than 20,000.

Niche operators should not be allowed to the urban market. Once the rural service definition is finalized the niche operators should be allowed to cover the area under their preview.

**MTROA:** The PMRTS industry views the Unified Licensing Regime as an opportunity for Regulator to remove the artificial barriers imposed on the application of technology, with an emphasis to exploit the special strengths of small niche operators (not necessarily rural) without leaving any existing player worse off.

While it is appreciated that the Unified Licensing Regime involves unification of Licenses and not unification of Services, the Unified Licensing Regime framework must encourage a niche service to grow to its realizable potential, at the same time retaining its niche character.

1) Qualification Criteria for a niche Service :

PMRTS is a niche industry worldwide. The parameters that we suggest using for qualification of a Service as a niche service are :

(i) The Service targets a specific category/segment of users e.g. institutional users, rural users, users for internet access only and meets all their communication needs so that the user carries one and not multiple devices.

(ii) The Service has a realizable potential not exceeding a certain percentage say 5% of the total 'access' subscribers – whether fixed line or wireless (This can be evidenced based on data from other countries who have liberalized their Telecom Sector much earlier).

The low realizable potential also automatically limits the extent to which a niche service can compete with the other broad based services.

(iii) The Service is limited by its geographic scope viz. only city based licensing, highway licenses, Licensing in less developed/remote areas etc.

(iv) Restrictions are imposed on rendering other Services on interconnect or direct connectivity.

Defining a niche Service only based on the type of PSTN connectivity or the extent of PSTN connectivity or other such restrictions will result in the Service Provider not being able to meet all the communication needs of the targeted niche, thus defeating the very purpose of bringing the service under a Unified Licensing Regime.

Moreover, we need to have a level playing field even for the niche operator to co-exist with other broad based services viz SMS facility from CMTS requires the regulator to review the regulation applicable to the paging operator in order to ensure its continued viability etc.

Similarly, CMTS offering a Closed User Group Service and intending to offer PTT will require an adequate 2 way PSTN Interconnect for the PMRTS Operators.

In Singapore for instance, all operators are required to interconnect, whether directly or indirectly to ensure seamless communications. In USA, the PMRTS operator enjoys a 100% PSTN interconnect.

**Thuraya:** No comment

**Hughes:** This point should be covered under USO scheme

**Bharti Welfare Foundation:** For categorization of areas the methodology of the Census of India is adaptable. Yes.

**CUAI:**

- (1) Criterion adapted by the Census of India is well suited.
- (2) RC for niche operators should be minimal as Rs 1000/-- as ceiling so as to encourage agencies to come forward.

**Bharti:** In our opinion, since migration to the Unified Licensing Regime is optional, those Access Providers who do not migrate to the new regime, shall constitute a niche in themselves. These Operators can well be defined as "Niche Operators" as their service areas will be limited to a single or a few circles.

Even at present, the objective of roll-out to rural, remote and less-developed areas, is sought to be achieved through subsidies and incentives to the Incumbent operator. In order to encourage these "Niche Operator" to roll-out in such remote and less developed regions, similar subsidies should be extended to them, as are provided to the incumbent. It may not be economically viable for *Niche Operators* to operate only in limited areas unless such subsidies and incentives are provided. It is suggested that a 'Rural Area' may be defined as per the census of India.

**Reliance:** For fulfilling the growth in rural, remote and less developed service areas, licensing niche operators (at LDCA / SDCA level) is not an appropriate solution. Such an approach will further aggravate the present issues of interconnection, numbering, spectrum, QoS, effective utilization of scarce resources, security etc.

Instead of this, the objective of universal rollout can be achieved by putting in place measures to incentivise unified licensees to roll out and reach rural and remote areas along with the appropriate rollout obligations. Some measures that may be considered in this regard include sharing of infrastructure, tax incentives, easier permissions, additional IUC benefits, reduced license fee, mandatory interconnection by the incumbent, permission for LDCC interconnection if interconnection at SDCC level is not feasible etc. Moreover once the market enters into full competition phase, service providers themselves will try to cover such areas to seek additional business.

**ISPAI:** This is desirable. Please see our detailed response in this regard placed below:

### **Recommendations for the proposed RURAL SERVICE PROVIDER (RSP)**

#### **Background**

There have been many attempts made to ensure that rural areas are covered. This has been a mixture of caveats and carrots, both of which have not had the best-desired results.

What is clear is that operators will go where business drives them. This strategy has worked in areas as diverse as shampoo sachets and small packs in paints.

#### **The Rural Market**

The prime reason that companies have not focused in rural areas is that their existing business models are not suitable for profitably addressing these markets.

The challenge in this case is – Disruptive – to commercialize the service offering of telephony in a more simple way such that it can be sold in a currently commercially unattractive market –viz rural areas.

Essentially what is clear is a "Disruptive Innovation Model" would be needed to successfully address this market. It is in this new hitherto untapped market that the New Disruptive Business Model would be competing with non-consumption.

With over 70% of India's population in rural areas the benefits for the country would be huge for every point in increase of rural tele-density.

### The Workable Model

What works in such a unique situation is a combination of

1. Technology
2. Business Model
3. Organization that has focus in rural areas.

The technology must be cost effective such that small numbers are viable and then modularly scalable as numbers increase.

The business model must focus on demand aggregation as well as offering a bouquet of services as that ensures sustainability.

Very simply an organization that is focused on urban and rural areas will easily gravitate its resources (in money, time and star employees) to the lucrative urban markets. Hence focus to address the rural market is critical as then the organization will consistently find new ways for solutions as its existence depends on these.

n-Logue Communications has worked through all these and is today a singularly focused rural service provider offering Internet based services only in rural areas. As we use CorDECT (the most cost effective rural deployment available) we can also provide telephony subject to license permitting.

### Terms for a Rural Service provider

This is a niche that needs to be treated as one, as players who will focus in these areas will be the small operators who cannot afford the large moneys needed for urban operations.

#### 1. Scope of operation: There Options

The RSP sets up operation in any city with population less than 2.0 lacs and can operate from there.	Helps in connectivity (data and voice) for an RSP. Unified license operators may have an issue as the set up towns would be competing areas	Is OK for an RSP, but may have some issues with Unified license operators Not Recommended
The RSP operates only in Rural SDCAs	There are too few Rural SDCAs in the country and there are many villages even in urban SDCAs	Not workable for an RSP at all as there will be no access allowed for a large number of villages Not Recommended
The RSP can set up operation anywhere – but at any time must have at least 80% of its customers in villages of population less than 20,000	This will help an RSP to set up infrastructure for connectivity purposes in District and Taluk HQs. It will also not encroach on the big business that the large operators would feel threatened by. All these figures can be	Seems to be the most likely and best option Recommended.

	audited and measured easily.	
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**2. Spectrum :**

It has been found that wireless is relevant in rural areas and hence, it is recommended that for an RSP spectrum is given on a preference and priority. A period of 10 years may be given for no spectrum fees. This could be either a direct subsidy or an indirect subsidy through the USO Fund.

**3. License Fees/ Entry Fees:**

Setting up huge and difficult entry fees will once again defeats the purpose. However, the government must still be able to differentiate and help the serious RSPs. What is recommended is the merging of the ISP and the RSP license for any specific geography. A state level ISP would then be able to offer RSP for the respective state. However, the RSP should be able to operate within a single SDCA as well if he so wishes.

**4. Interconnect :**

Interconnect should be mandatory for the incumbent (BSNL) at the local SDCA for all calls (including STD & ISD). In case, an RSP is operating in two adjacent SDCAs, handover at either SDCA should suffice. IUC calculations as per TRAI would be applicable. Local Connectivity including port charges should also be considered for a subsidy from the USO Fund.

16. In Model II (Convergence bill Model) and Model III (FBO and SBO based Licenses), what should be the level of Registration Charges for different categories. Whether this Registration Charge should be dependent on the type and number of services offered by licensee?

**RailTel:** No comments as these models have not been recommended by us.

**Estel:** Irrespective of Model-II or Model-III, the Registration Charge should reflect only the cost of processing the application.

**ABTO:** The model proposed in our response at Q.1 is felt most befitting and should be implemented.

**BPL:** We are not in favour of adopting Model-II (Convergence Bill Model). This will be a retrograde step and will make the licensing far more complicated as a service provider will have to obtain multiple licenses for providing one facility based service. Model-III is similar to the concept of Unified Licenses and Class Licenses as all facility-based services are included under Unified License. Most of the services under 'Class License' are provided by leasing infrastructure from some other service providers and fall under the category of 'Non-facility based Services'.

**TATA:** Not Applicable

**SPICE:** Since unification of Access Services has already been implemented, now at this juncture we are not in favour of the above Convergence Bill Model as feel that this would entail a complete reclassification of licensing categories, which would tantamount to a complete unbundling of the communication sector & to map them & reclassify the license segments under network infrastructure facilities, networking services, network application services & value added network application services would result in a situation where each existing service provider would be required to have all or at least multiple categories of licenses would go against Authority's objective of putting a simplified authorization / registration regime in place.

**CUTS:** NA

**CyberBazaar:** It should be dependent on the service area covered.

**COAI:** In view of the legacy service-specific licensing framework that has been followed for Indian Telecom sector till date, we are not in favour of the above Convergence Bill Model as we believe that this would entail a complete reclassification of licensing categories, which would tantamount to a complete unbundling of the communication sector leading in fact to over-licensing. This would be because given the way that the licenses have been awarded (on a service-specific basis), to reclassify the license segments under network infrastructure facilities, networking services, network application services & value added network application services would result in a situation where each existing service provider would be required to have all or at least multiple categories of licenses. This would put the sector at risk of over-regulation which would be contrary to the Authority's objective of putting a simplified authorization / registration scheme in place.

**BSNL:** Our comments as above may be referred.

**Thuraya:** No comment

**Hughes:** Please refer to the suggested model against point # 1

**Bharti Welfare Foundation:** Such an approach for registration charge should not be adapted.

**CUAI:** These models are not suitable and out of line with the principles on which a unified licensing regime is being contemplated.

**Bharti:** We have proposed a different model of Unified License. Please refer to Q.1 to 3. Service Area in Unified Licensing Regime

**Reliance:** As mentioned in our response to Q 1 and Q 10, Model I is the most suitable model for implementation of unified licensing regime.

**ISPAI:** Please see our response to Question No. 11 hereinabove. Anyway, for the operators under Class Registration such as ISPs including those offering Internet Telephony, the existing practice of no registration charges should continue.

### Service Area in Unified Licensing regime

17. **Whether the choice of service area should be left to the operator as envisaged in our recommendations or choice should be limited to the existing licensed service areas, viz. circle, nationwide?**

**RailTel:** Choice of the service area should be limited to existing license service area except for Niche operator where it could be LDCA wise.

**VSAI:** This is not applicable to VSAT services.

**Estel:** The service area should be treated as nationwide.

**SHYAM:** Answers for Questions 17 to 20

The service area should be limited to existing service areas viz., Circle of Nationwide.

However Government should consider issuing Class licenses for rural and remote areas for over all development of Tele density. There should not be any technology restriction for such operations, and these classified operators should not be allowed to operate in the top 50 cities. The primary concern is to reach out to the rural and remote locations of this country. The entry fee and revenue sharing should be as applicable to ISPs.

**ABTO:** Service area for all services under unified license should be on circle basis. For NLD/ILD services under ULR it should be as per existing terms.

However, the choice of service area as well as services to be provided should be left to the service provider. Though Unified License entails him to provide NLD/ILD service, he may be allowed to provide these services in the circle(s) for which he has unified license(s).

Service area for class licensees viz, Radio Paging, PMRTS, ISPs, GMPCS etc. may remain the same as existing now for these services.

**BPL:** The choice of service area should be left to the operator. There should be no need to obtain separate licenses for each service area. The licensee should be authorized to provide the prescribed services under each category of license anywhere in India.

**TATA:** The Service area for all services under the ULR should effectively be all India, and the service provider may decide the geographies of operation. However, spectrum should be made available on a circle basis, on payment of relevant fees.

**SPICE:** As already submitted earlier, it is suggested that the choice of service area should be left to the operators, which is in line with Authority's earlier recommendations. However for Niche players, the service area can be at below circle level i.e. LDCA/SDCA. However for full service offerings, issues on interconnection, spectrum allocation, monitoring & regulation will have to be considered separately.

We are of the view that the unified licensing should be service area wise (i.e. Circle-wise) & the choice of service area should be left to the licensees. For circle-wise unified licenses, the circle based service provider with a unified license for his service area, will get the following rights :

#### **Access**

Right to offer all types of access services within his service area

#### **National Long Distance**

Right to carry long distance traffic of any subscriber within his licensed service area (including subscribers of other operators)



Right to carry national long distance traffic outside his service area for his own subscribers as well as for subscribers of other operators in his area.

#### **International Long Distance**

Right to set up an International gateway in his licensed service area for catering to ILD calls to & from his licensed service area

This way a unified licensee will be able to provide not only the end to end service to its subscribers but would also ensure the requisite QoS to its subscribers.

**CUTS:** It should be left to the choice of the operator

**CyberBazaar:** Choice of Nationwide, Circle, LDCA, SDCA based should be available.

#### **COAI:**

- a. As submitted in our earlier response to the Pre-Consultation Paper, the Authority may adopt a two-tier service area classification – one, circle-wise licensing as applicable to the cellular operators, unified access licensees, etc and secondly an All India Unified Telecom License. Within this categorization, the operator should be free to operate in his choice of service areas.
- b. The Authority has itself noted (Page 31 of the Consultation Paper) that having unified licenses at the SDCA level may create problems of interconnection, regulation, spectrum allocation, monitoring, etc.

**BSNL:** To ensure level playing field and avoid litigation, the choice should be limited to the existing licensed service areas viz circle wise for UASL and nation wide for Unified Telecom Service Licence (UTSL).

#### **Palakkad District Consumers' Association, Kerala**

Answer for 17 to 20:

It would be easier as well as cost-effective for BSNL to use its existing nationwide telecom infrastructure to reach rural / remote areas. For this purpose, BSNL would have access to the USO Fund and also be extended some special privileges for undertaking this social responsibility.

#### **MTROA:** Answers for 17 to 20:

The Service Area shall continue to remain restricted to the existing definition of a city i.e. equivalent to Delhi, Mumbai, Chennai and Calcutta circles for CMTS and keeping the same spirit for other cities/towns.

However a State Wide Service Area, co-terminus with a Telecom Circle, may be allowed to those PMRTS operators seeking to provide Highway communication services.

**Thuraya:** The choice of service area should be left to the operator. The service provider planning to provide any satellite service would like to do it on a nationwide basis.

**Hughes:** We should have defined coverage as suggested against point # 9

**Bharti Welfare Foundation:** The existing circle wise approach must continue and a scheme must also be in place for a nation wide license.

**CUAI:** A minimum package of services to be offered must be defined by every unified licensee. The existing circle based licensing pattern must continue. A nation wide licensing pattern must also be contemplated.

**Bharti:** Answers for 17 to 19:

As stated earlier, migration to the new regime should be optional. Accordingly, the choice of service area is by default left to the operators. Operators are permitted to retain their existing Service Specific Licences and provide services in selected areas under such Licenses.

The Unified Licence necessarily requires an All-India Licence for all the services which are included in the Unified Licence, so that benefits of integrated and unified operations can be made available to such operators. For example, those who wish to obtain a Unified Licence should necessarily be mandated to provide All India Access Services, NLD & NLD Services etc which are a part of the Unified Licence. However, the services which are a part of the Class License shall not be mandatory for the Unified Operators.

It is also suggested that such Unified Licensees be allowed to use a Common Public Land Mobile Network Code so that the benefits of synergies and operational convenience are made available to them since they would have obtained such licenses after paying substantial amounts of Registration/Entry Fee.

The service area for Class Licenses should be retained as at present.

**Reliance:** As mentioned in response to Q10, the service area for unified licenses should be the entire country.

**ISPAI:** The service area should be treated as nationwide.

18. **What should be the service area for Class licenses? Should SDCA level license be granted for Class Categories?**

**RailTel:** The service area for class license should be Nation wide.

**Estel:** Service Area for **Class Licenses** should be **All India**.

**ABTO:** Service area definition for class licenses should continue as existing today – or as prevalent in the ISP licenses today.

**BPL:** The Class Licenses may be issued on 'All India'/'Circle' basis. No license should be issued on SDCA/LDCA basis. Since there will be no rollout obligation, an operator could choose his own turf after getting the authorisation/registration.

**TATA:** The operators in the Class Licence category should be allowed to choose any service area of their choice. The niche operators may, however, operate only in the specific areas for which they have been licensed.

**SPICE:** We believe that a SDCA based license may be considered for services offered under a Class License as this would result in better penetration of un-served areas & also fuel the growth of applications & services to their full extent, so long these are non-facility based services. However for facility based services, the term & conditions applied to SDCA based Class licensee should be same as applicable to Circle based licensee.

**CyberBazaar:** Class Licenses being more value added in nature should be LDCA based.

**COAI:** We believe that a SDCA based license may be considered for services offered under a Class License as this would result in better penetration of un-served areas.

**BSNL:** Class Licence, if restricted for application services only as proposed above, may be granted at the SDCA level or at the circle level.

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**Thuraya:** There should not be any limitation on the service area for Class License.

**Hughes:** Please refer point # 9. For Class Licenses, area should be kept free and to the choice of the operator. The operators can operate in the locality, or town or city or district or circle or nation. Class Licenses in reality should provide the upside to the nation and create opportunities to small, medium and large entrepreneurs.

**Bharti Welfare Foundation:** Two tier approach; Regional and National.

**CUAI:** SDCA based licenses may be considered.

**Reliance:** For class license the service area can be similar to the present terms or it can be similar to what is permitted to ISPs today i.e. either LDCA, Circle or National level license.

**ISPAI:** Service Area for for the operators under **Class Registration** such as ISPs including those offering Internet Telephony, should be **All India**.

19. **How to prevent 'Cherry Picking' while leaving the choice of service areas to the service providers.**

**RailTel:** The situation may not arise as growth is now taking place in areas which were not popular earlier and there is likely to be more growth in such areas.

**Estel:** With the concept of Class Licenses (except where spectrum is required) the question of 'Cherry Picking' does not arise.

**ABTO:** Choice of service area and roll out should be left to the service provider.

**USF:** In the event the licensed area is LDCA based, then all SDCAs in that LDCA including all rural SDCAs will have to be covered with specific roll out condition for such rural SDCAs. This will largely prevent cherry picking.

**BPL:** Let the market forces determine the services to be provided and the geographical areas to be covered by an operator.

**TATA:** It is believed that over a period of time the service providers would extend their services to most geographies based on market demand and business viability. However, a minimum roll-out obligation (described in a following section) may be prescribed by TRAI.

**SPICE:** It is submitted that once the Authorities have decided to adopt a market lead approach, then the choice of services by operators will have to be left to market forces and the business potential of the respective service areas will determine the degree and extent competition in each service area.

In this context, we would however like to point out that under the existing / old regime the costs of service provisions were high because of the high levies associated with the license. As a result of this, operators were compelled to focus on the more lucrative areas on the basis of commercial considerations. However under the new proposed regime it is expected that the entry barriers and associated costs will be lowered drastically. This may encourage operators to seek out areas with untapped business potential.

**CUTS:** Competition will take care of this situation

**CyberBazaar:** Based on the current circle wise models, Group's of LDCA's should be distributed to the 3-5 unified access operators (excluding BSNL) and should be accountable for roll out obligations of the allotted LDCA's. Meeting rollout obligation of these groups of LDCA's (20-30% of the circle area) will be much easier to implement by private operators

than insisting on all operators to meet rural obligations throughout the circle. To encourage rural investment a higher termination/origination fee may be mandated compared to urban/semi-urban termination/origination. Access operators who opt more than 30% of LDCA's in a circle should be deemed Circle Operators. Access operators who opt more than 30% of SDCA's in a LDCA should be deemed LDCA Operator. Access operators who opt 75% of A grade and 50% of B Grade circles should be deemed National Operators and should pick up remaining B and C circles.

**COAI:**

- a. It is submitted that once the Authority has decided to adopt a market-led approach, then the choice of services and service areas by operators must be left to market forces and the business potential of the respective service areas will determine the degree and extent competition in each service / service area.
- b. In this context, we would however like to point out that under the existing / old regime the costs of service provisions were high because of the high levies associated with the license. As a result of this, operators were compelled to focus on the more lucrative areas on the basis of commercial considerations. However under the new proposed regime it is expected that the entry barriers and associated costs will be lowered drastically. This lower cost coupled with the increased competition will drive operators to seek out newer areas with untapped business potential.

**BSNL:** 'Cherry Picking' cannot be prevented if the choice of service areas is left to the service providers. In case of UASL also, there is practically no roll out obligation and is, therefore, resulting into a sort of 'Cherry Picking' as the operators are rolling out their networks in the selected few places. Stringent roll out obligations, non-discriminatory provision of service and adequate incentives and compensations to those who provide service in rural, semi urban and remote areas may help in preventing the 'Cherry Picking'.

**Thuraya:** No comment

**Hughes:** Let the market forces prevail. For uneconomical areas, USO should take care.

**Bharti Welfare Foundation:** Building of on-lucrative areas with high growth/high revenue areas in a transparent manner.

**CUAI:** The low potential areas must be bundled with the high growth/ high revenue territories.

**Reliance:** Answers for 19 to 20:

As detailed in our response to Q 15, licensing at LDCA / SDCA level is not an appropriate solution.

**ISPAI:** With the concept of **Class Registration** (except where spectrum is required) the question of 'Cherry Picking' does not arise. Ample competition already exists in provision of Internet services. At the same time, it is desirable that special incentives be designed for ISPs who wish to focus exclusively on rural areas.

20. **Whether we may define service area below circle level say LDCA/SDCA for niche operators in Unified License?**

**RailTel:** We have proposed LDCA service area for Niche operator.

**Estel:** No comments.

**ABTO:** Service area definition for class licenses should continue as existing today – or as prevalent in the ISP licenses today.

**USF:** The Service Area could be defined in terms of all rural SDCAs in an SSA. In case LDCA is treated as a Service Area for improving viability of such operators then comments on SI. No. 19 above may be taken into account.

**BPL:** No, in our opinion the service area should not be defined below circle level. Niche operators having licenses for LDCA/SDCA will not be viable and would result in lot of complexity in interconnection.

**TATA:** Yes, for niche operators, the service area may be defined at below circle level at LDCA / SDCA. This would permit the niche operators to operate in only rural and less developed areas.

**SPICE:** As already stated earlier, niche operators may basically be allowed to operate in Rural & remote SDCAs only. However before implementing the concept, other issues such as interconnection, spectrum, security & monitoring etc needs to be looked in to by the Authority.

**CUTS:** Yes

**CyberBazaar:** Providing licenses based on LDCA/SDCA will allow the penetration of telecom of broadband services by regional operators and result in higher penetration (cable operators are today operating at village and providing good service, cable penetration 10-15 times higher than telephone penetration).

**COAI:** As already stated in pre-paras, niche operators may be allowed to operate under a Class License in Rural SDCAs only.

**BSNL:** No, the service area should not be reduced below circle level as such operators will not be able to have viable business on such small scales.

**Midas:** The niche operators might be in the initial phase operate in only Semi-Urban, rural, remote and less developed part of the LDCA/SDCA including LDCC/SDCCs, but in the long run should not be bound by such definitions.

**Thuraya:** No comment

**Hughes:** No. Plwase refer point # 18.

**Bharti Welfare Foundation:** Yes.

**CUAI:** Yes, SDCA based coverage may be considered.

**Bharti:** Please refer to our response to Q.15 above.

**ISPAI:** For Rural Service Providers, service area may be as small as an SDCA, if they so wish.

## License Fee

### 21. What should be the level of license fee for different services in the suggested licensing model?

**RailTel :** Reply to Item No. 21 to 24:-.

It is proposed that there should be annual fee for 6% (5% for USO + 1% administrative cost) of AGR for all telecom service under unified license and 1% for all services under class licenses. Further, there should not be any license fee for Niche service provider and it is further proposed that Niche operator should be given assistance from USO fund.

**VSAT:** License fee for VSAT services under class license should be limited to 1% of AGR (to meet administrative costs) without any obligation to USO.

**Estel:** Revenue sharing License Fee percentage should actually reflect the cost of two items:

- Cost of regulating the licenses by TRAI plus
- Universal Service Obligation charges

To begin with, a Uniform Annual License Fee of 5% (including USO) can be specified for the first three years and thereafter the percentage should be reviewed in the light of increasing collection on account of substantial increase in revenue base.

**SHYAM:** Answers for Questions 21 to 24

The License fee should be – USO 5% and 1% for Administrative expenses. The AGR definition should be amended to include only income from Telecom Services.

For Class licenses and niche service providers, a very minimum license fee should be levied.

**ABTO:** The level of revenue share license fee for different services should continue to be based on a percentage of Adjusted Gross Revenue (AGR) and the percentage should be same for all categories of licenses/ service area. There is no need to have different license fee on the basis of metro, category A, B and C circles.

The revenue share license fee should be 6% of the AGR to cover the contribution to Universal Service Fund of 5% and administrative charges of 1% as comparable to international levels. Lower burden in the form of revenue share in the ULR will go a long way in providing affordable services to masses and provide impetus to achieve and surpass the target of tele density as set in NTP 99 for the year 2010. License fee should not be used as a revenue generating mechanism. With the current services and its impact on the economy, the Government will earn much higher returns including service tax than what it extracts from enforced license fee

The definition of AGR should also be reviewed so that

- AGR is based on service related revenues & all non-service related revenue streams are excluded.
- AGR is also adjusted for such expenses, viz, bad debts, subscriber discounts etc. incurred by the licensees to earn such incomes/ revenues.
- The definition should be comprehensive/ exhaustive so as to give no scope for disputes.

**BPL:** We recommend that the license fee should cover only the recurring administrative costs as is generally the case in other countries. We recommend the following license fees:

Unified License  
Class License

USO + 1%

Either only the administrative charges of 1% or if it is considered desirable that such operators should also contribute towards USO, their contribution to USO should be limited to 50% of that of a Unified Licensee.

**TATA:** The level of Licence fee for different services under the ULR should continue to be based on a percentage of Annual Gross Revenue (AGR) and the percentage should be same for all categories of Licences / service area. There is no need to have different Licence fee on the basis of metro, category A, B and C circles. Further the level of Licence fee should be uniform across services and should consist of Universal Service Obligation of 5% plus administrative cost, with the total Licence fee being a maximum of 6% of Adjusted Gross Revenue (AGR). This is comparable to international levels.

However, services which are part of the Class Licences like Internet, bandwidth, etc. may be exempted from any licence fee.

The ADC which is currently charged on a call by call basis has resulted in significant grey traffic and under-declaration of long distance calls. Therefore, an additional revenue share, say 1%, may be charged as the ADC component. This would need to be modified / phased out depending on the ADC requirements.

**SPICE:** There should be one single license fee for a unified telecom license, which will cover all the services that can be offered under the single license. However, as stated earlier, and as also recorded by the Authority, spectrum will be priced and allocated separately.

**CUTS:** License fee should not be kept at a level such as it acts as an entry barrier.

**CyberBazaar:** % of AGR.

**COAI:**

- a. There should be one single license fee for a unified telecom license, which will cover all the services that can be offered under the single license. By prescribing separate fees for different services under the Unified License, the very raison d'être of introducing a unified licensing regime will be defeated.
- b. However spectrum, as also recorded by the Authority, will be priced and allocated separately. We understand that the Authority would soon be initiating a consultation process to deal with all spectrum related issues.
- c. In this context, it may kindly be noted that the entry fees paid by the existing wireless operators is essentially the entry fee for spectrum. The Authority too has recognized this in its Preliminary Consultation Paper on Unified Licensing issued on November 15, 2003 wherein the Authority has recorded that " For the existing service providers who use spectrum for providing telecom services, entry fee paid includes spectrum charges...."
- d. The DoT Committee on the Efficient Use of Spectrum by Cellular Services has recognized the importance of this resource for wireless operators and has accordingly recommended a roadmap for allocation of upto 2X15 MHz per operator based on achievement of certain pre-defined milestones. It is submitted that existing operators must at least be entitled to additional spectrum upto this cap without payment of any additional charges.

**BSNL:** The Licence Fee as applicable at present may be levied separately for each type of service being provided by the unified licensee.

**Palakkad District Consumers' Association, Kerala:** Answer for 21 to 24  
Should be uniformly applicable to all licensees.

**MTROA:** Answers for 21 to 24:

PMRTS Licenses falling under the Class License category may be exempted from the USO obligations of 5% of AGR.

The Annual Licence Fees may be zero or nearly zero, given the niche status of the service.

Spectrum charges may be levied extra as per the spectrum policy and should be the same for a captive Licensee to create a level playing field.

**Thuraya:** The license fee should be based on a revenue sharing mechanism where the licensed telecom operator is required to pay certain percentage out of his adjusted gross revenue.

**Hughes:** Refer Annexure II. AGR should be redefined to include only revenue against the services covered under the licenses. The AGR should exclude all the revenue accruing on account of sale or rent of equipment, all value added services including consulting, monitoring of customer specific network etc.

**Orissa Consumers Association;** Answer for 21 to 24

- (A) License fees should be 2% of the annual gross turnover out of which 1% to be spent for consumer education and awareness on QoS/ standard of performance and redressal of their grievances & welfare.
- (B) It is not appropriate to consider revenue earning from growth of telecom sector / service by central Govt.
- (C) Increase of revenue for the State exchequer should not be motto / priority consideration and consideration should be for growth & develops of services, which will generate revenue indirectly creating atmosphere/field/climate of growth of Industry, Commerce. Trade of the Country by improvement of communication system / service.

**Bharti Welfare Foundation:** Nominal fee for one category of license. It is understand that service specific licensing shall be cease to exist.

**CUAI:**

- (1) Single fee for the umbrella of unified license.
- (2) No service specific license fee to be there.
- (3) Spectrum to be priced separately.
- (4) Charges for spectrum/license should be bare minimum.

**Bharti:** Answers for 21 to 23:

It is suggested that a uniform License Fee is imposed under the Unified License. Further, such annual License Fee should be kept at a nominal amount in line with international standards and practice. Worldwide the License Fee ranges from 0.5% to 1% of revenue. The existing levels of License Fee in India are among the highest in the world. It is therefore suggested that License Fee is rationalised under the new regime. The License Fee should be sufficient to cover the costs incurred by the Licensor for administration and regulation of the sector.

Further, USO contribution should also be kept at a minimum percentage, in line with international standards. The USO contribution may have a Sunset Clause depending upon the growth of the sector.



Lowering the License Fee shall have a positive impact on tele-density as it shall enable faster roll-out by operators. It is well known that increased tele-density has a multiplier effect on the GDP of an economy.

**Reliance:** Minimum license fee (say 5% for USO + 1% for administrative cost in line with international benchmarks) should be specified for all services under unified.

Alternatively the better option is the recovery of license fee through service tax collection (say X% which can be fixed in consultation with the industry). Such an approach will avoid the present double charging for the same service (by way of service tax levy in addition to the license fee payable on the same service). Apart from making it easier for the government to collect this service charge in one single component, this approach will also ensure affordability of telecom services for the masses and a higher revenue receipt for the Government due to increased telecom penetration and usage.

**ISPAI:** Revenue sharing License Fee percentage should be:

- Cost of administration and regulating, not exceeding 1% of the AGR
- Contribution to Universal Service Obligation not exceeding 5% of the AGR

**22. Should minimum amount of the license fee be specified irrespective of the Adjusted Gross Revenue (AGR)?**

**VSAI:** No.

**Estel:** Revenue sharing License Fee percentage should actually reflect the cost of two items:

- Cost of regulating the licenses by TRAI plus
- Universal Service Obligation charges

To begin with, a Uniform Annual License Fee of 5% (including USO) can be specified for the first three years and thereafter the percentage should be reviewed in the light of increasing collection on account of substantial increase in revenue base.

**ABTO:** No minimum amount of the license fee be specified. The revenue share license fee should be 6% of the AGR to cover the contribution to Universal Service Fund of 5% and administrative charges of 1% as comparable to International levels.

**BPL:** No minimum license fee should be prescribed; the license fee should be the prescribed percentage of AGR.

**TATA:** There should be no amount of minimum Licence fee, as charging a minimum amount could be a deterrent for small operators.

**SPICE:** With the drastic lowering of entry barriers and the introduction of a simple authorization process with a nominal registration fee, would also mean enhanced competition & therefore there is no need of prescribing any minimum license fee. The market forces would weed out any non-serious players from the market place.

**CUTS:** Yes with relaxations for niche operators

**CyberBazaar:** YES to cover administrative costs. High yielding areas will automatically provide higher fees compared to low yielding areas

**COAI:** With the drastic lowering of entry barriers and the introduction of a simple authorization process with a nominal registration fee, a minimum annual fee as proposed by the Authority may be desirable to prevent non-serious players from entering the

market. It is suggested that this objective may be achieved by prescribing an annual license fee revenue share subject to payment of a minimum fixed amount.

**BSNL:** Yes. This will promote fast growth of the telecom networks. In addition, it is suggested that there should be a cap on the maximum licence fee payable by any operator. This will further motivate the operators to accelerate growth of their networks.

**Thuraya:** No. The license should be based on revenue sharing and therefore if a telecom operator is not generating sizeable revenue, such a telecom operator should not be subject to a minimum fee which the telecom operator will find difficult to pay.

**Hughes:** No minimum fee

**Bharti Welfare Foundation:** Yes.

**CUAI:** Yes, for the one enrolment fee and for the recurring charges as well.

**Reliance:** No, such an approach will discourage entry of new operators.

**ISPAI:** No. Please see our response to Question 21.

23. Should there be uniform annual license fee say 6% (5% USO+1% administrative cost) of AGR for all telecom services in all service areas or should license fee vary from service to service and service area to service area?

**Estel:** Revenue sharing License Fee percentage should actually reflect the cost of two items:

- Cost of regulating the licenses by TRAI plus
- Universal Service Obligation charges

To begin with, a Uniform Annual License Fee of 5% (including USO) can be specified for the first three years and thereafter the percentage should be reviewed in the light of increasing collection on account of substantial increase in revenue base.

**ABTO:** There should be a uniform annual license fee of 6 % (5 % USO and 1 % administrative cost) of AGR for all telecom services including class licensed services in all service areas.

**BPL:** The license fee as percentage of AGR should be same for all types of Services included under one license. However, different percentages could be prescribed for services under Unified License and Class License.

**TATA:** As stated in response to question number 21 above, there should be a uniform Licence fee for all telecom services in all service areas.

However the definition of Adjusted Gross Revenue adopted by DoT needs to be amended as it includes certain revenue streams which do not constitute a revenue from service and it also does not allow for deductions for some costs that are incurred in earning such service revenues / income.

The AGR defined of DoT includes the following revenue streams that are unrelated to the relevant service activities:

- Interest Income from Investments
- Dividend income from investments
- Revenues from sale of handsets

- Revenues from Sale of Capital Goods
- Revenues from sharing/ leasing of infrastructure
- Revenues from services which do not attract licence fees

In our view, it is incorrect to include the above for the purpose of calculating revenue share license fees.

Further, the DoT definition of AGR does not allow following deductions:

- Bad Debts
- Waivers / Discounts to Subscribers
- Roaming Signalling charges
- Port Charges, lease line charges - payments to other operators should be allowed to be deducted so as to prevent double payments

We believe that this violates the well-established principle that if any income is charged to a tax / levy, then the underlying expenses incurred to earn such incomes must also be allowed as a deduction for Adjusted Gross revenue used for calculation of revenue share / licence fee.

**SPICE:** We would like to endorse the annual license fee revenue share of 6% of AGR as proposed by the Authority and it should be applicable to all. However, the 1<sup>st</sup> & 2<sup>nd</sup> Circle Cellular licensees who have been granted an 2% waiver / reduction in revenue share license fee for a period of 4 years starting April 1, 2004, must continue to be entitled to a 2% lower revenue share license fee for the stipulated 4 year period, even under the new regime.

Once the license fee is applied as a percentage of revenues, there is no logic to prescribing differential slabs for different service area categories. The varying potential of the different service areas will be reflected in the revenues that will accrue from these areas and accordingly the annual fee that is recovered from the same.

**CUTS:** Yes, there should be a uniform annual licence fee

**CyberBazaar:** YES.

**COAI:**

- a. We would like to endorse the annual license fee revenue share of 6% of AGR as proposed by the Authority.
- b. However, it is submitted that the 1<sup>st</sup> & 2<sup>nd</sup> Circle Cellular licensees who have been granted an 2% waiver / reduction in revenue share license fee for a period of 4 years starting April 1, 2004, must continue to be entitled to a lower revenue share license fee for the stipulated 4 year period, even under the new regime.
- c. We believe that once the license fee is applied as a percentage of revenues; there is no logic to prescribing differential slabs for different services / service area categories. The varying potential of the different services / service areas will be reflected in the revenues that will accrue from these services / areas and accordingly the annual fee that is recovered from the same.
- d. Accordingly we believe that as per the above principles, the categorization of service areas as "Metro", "A", "B" or "C" would become irrelevant for the purpose of levying an annual license fee based on revenues.

**BSNL:** As submitted above, the Licence Fee should vary from service to service and from service area to service area.

**Midas:** There should not be uniform annual license fees. RSP's will be focusing on areas which are underdeveloped and for which USO Fund is utilized. Thus it won't be justified to levy a 5% annual license fees towards USO Fund.

**Thuraya:** There should be a uniform annual license fee for all telecom operators based on revenue sharing. Therefore the license fee will depend on the revenue generated by the telecom operators.

**Hughes:** Uniform license fee - 6% for Unified Licenses

**Bharti Welfare Foundation:** A uniform fee is the need of the hour.

**CUAI:** A flat fee irrespective of the type of circle or metro territory should be there.

**Reliance:** With introduction of minimum license fee or service Tax, the levy can be uniform irrespective of service type or service area, which will help avoid bypass of revenue and will be easier to monitor.

**ISPAI:** Please see our reply to item 21.

24. What should be the level of license fee for Class licensees and niche service providers?

**VSAI:** License fee for VSAT services under class license should be limited to 1% of AGR (to meet administrative costs) without any obligation to USO.

**Estel:** Revenue sharing License Fee percentage should actually reflect the cost of two items:

- Cost of regulating the licenses by TRAI plus
- Universal Service Obligation charges

To begin with, a Uniform Annual License Fee of 5% (including USO) can be specified for the first three years and thereafter the percentage should be reviewed in the light of increasing collection on account of substantial increase in revenue base.

**ABTO:** Though a lower level of license fee for class licensees may be considered it should be not be lower than the contribution to the USO fund (that is, 5 % of AGR) as proposed above for all other telecom services – 1% administrative charges may be waived if considered appropriate.

The concept of Niche service providers would be covered under the Class licenses.

**USF:** The license fee for niche service providers may be at the same level as USO contribution.

**BPL:** We recommend that the license fee should cover only the recurring administrative costs as is generally the case in other countries. We recommend the following license fees:

- Unified License                      USO + 1%
- Class License                        Either only the administrative charges of 1% or if it is considered desirable that such operators should also contribute towards USO, their contribution to USO should be limited to 50% of that of a Unified Licensee.

**TATA:** As described above, the level of Licence fee for Class Licences and niche operators should be kept zero, except in the case of Internet Telephony with PSTN termination where a licence fee similar to Unified Licence should be charged

**SPICE:** We believe that the annual license fee revenue share should be identical for all categories of licensees including Class Licensees and Niche Operators. This will include the contribution to USO as well as a levy for the cost of administration & regulation of the sector.

However, as pointed out above, Niche operators by virtue of operating exclusively in Rural SDCAs needs to be incentivised & should be entitled to reimbursements from the USO fund.

**CUTS:** Relaxation should be given to niche operators as an incentive

**CyberBazaar:** As above.

**COAI:**

a. We believe that the annual license fee revenue share should be identical for all categories of licensees including Class Licensees and Niche Operators. This will include the contribution to USO as well as a levy for the cost of administration & regulation of the sector.

b. However, as pointed out above, Niche Operators by virtue of operating exclusively in Rural SDCAs should be entitled to reimbursements from the USO Fund.

**BSNL:** Minimum 5% may be levied as the Licence Fee on all class licensees for contribution towards USO.

**Midas:** The License fees for the Class Licensees and Niche service operators should be zero.

**Thuraya:** Normally, the Class Licensees are not subject to payment of any license fee.

**Hughes:** 1% for Class & Infrastructure Licenses. The reason for the differentiation is that Service Providers under Class and Infrastructure Licenses will either use the services or provide the services to the Service Providers under Unified License.

**Bharti Welfare Foundation:** 0.25-0.5 % of annual gross revenues.

**CUAI:** 0-0.5% as ceiling.

**Bharti:** The License Fee for a Class License should also be uniform and rationalised.

**Reliance:** Subject to the principle that scope of service for class licenses do not infringe upon that of the unified licenses, a token minimum license fee can be specified for Class Licensees.

**ISPAI:** For operators under the Class Registration including the ISPs offering Internet Telephony, contribution towards the USO fund not exceeding 5% Adjusted Gross Revenue (AGR) accruing specifically from 'Internet Telephony' only should be applicable.

### Bank Guarantees

25. What should be the level of Bank Guarantees fee for different services in the suggested licensing model?

**VSAI:** As far as VSAT services are concerned the existing level of PBG (50 lac) & FBG (175 lac) be continued.

**Estel:** The views as expressed by TRAI on Page 37 (Para 3.1) about Zero Performance Bank Guarantee are very logical and we strongly recommend and support the same.

**SHYAM:** Answers for Questions 25 to 27

Bank guarantees for all services should be minimum due to the following reasons:

1. India have crossed the stage of duopoly, the choice to customers are automatically taken care of.
2. As the market is getting mature and roll out obligations getting relaxed, the Government should let market forces to come in play.
3. At the time of awarding the license there is already a screening process of checking the net worth etc.

Therefore higher Bank Guarantee has no meaning in this multi poly regime.

**ABTO:** Answer for 25 and 26

There has to be Corporate Financial Guarantee instead of Bank Guarantee for different services in the suggested licensing model and the level of Financial Guarantee for Unified License and class license should be same.

The present requirement imposed on the service providers is to the extent of two quarters' revenue share and needs to be brought down to one quarter's revenue share as the service providers are required to pay their license fee at the end of every quarter.

In view of reduction of annual license fee by 2% with effect from April 1, 2004, the Financial Guarantee needs to be reviewed.

The objective of performance guarantee is to ensure fulfillment of roll out obligations and to maintain quality of service. Once roll out obligations have been met, there should be no requirement to impose a performance guarantee and the same should be released by the licensor. No additional conditions need to be imposed for release of PBGs of UASLs.

**BPL:-** There should be no PBG. If a licensee does not fulfill his obligations under the license, the same could be terminated after giving the operator an opportunity to set right the matter. The amount of FBG should not exceed maximum of two quarters' revenue share. This should be reduced to one quarter revenue share based on the past track record of a service provider.

**TATA :** Answers for Question 25 and 26

Since the roll-out obligations proposed under the Unified Licence are not onerous, it would not be necessary to have very stringent Performance Bank Guarantees. A PBG of Rs 25 crores could be mandated, with the condition that it would be returned once the obligations are met.

At present, the FBG requirement imposed on the service providers is to the extent of 2 quarters' revenue share plus any additional amount deemed fit by the licensor. In our view, as the service providers are paying their license fee at the end of every quarter, the FBG requirement should be reduced to 1 quarter revenue share.

**Spice:** It is submitted that the level of Financial Bank Guarantee under the new unified regime should continue to be linked to the revenues of the licensee and be a single FBG for the entire license.

As regards the level of PBG this is linked to the rollout obligations, if any, of the licensee. The Authority has itself opined in this Consultation Paper that the level of PBG should be reduced to zero, once the rollout obligations, if any, have been met.

**CUTS:** Bank guarantees to be in proportion to the size of operations.

**CyberBazaar:** Based on Service Area. Bank Guarantees should increase as service area increases and number of subscribers and Gross Revenue increases as obligations and responsibilities increase. (like for Banks, Stock Brokers).

**COAI:**

- a. Under the present regime, Bank Guarantees have been prescribed for payment of license fee revenue share (Financial Bank Guarantee) and for ensuring fulfillment of rollout obligations (Performance Bank Guarantee).
- b. It is submitted that the concept of Financial Bank Guarantees should be reviewed and done away with under the new unified licensing regime as they only add to the costs of end-consumers. It is verily believed that the imposition of Financial Bank Guarantees is not a prevalent practice in other telecom regimes.
- c. As regards the level of PBG, this is linked to the rollout obligations of the licensee. The Authority has opined in this Consultation Paper that the level of PBG should be reduced to zero, once the rollout obligations, if any, have been met.

We are of the view that once the Government moves to a market led policy & licensing regime and facilitates the introduction of competition, the objective of coverage and reach will be automatically achieved as players will continue to venture into newer areas to seek business. In such a case, it may be unnecessary to actually stipulate a specific rollout obligation in the licenses. Further, past performance has clearly demonstrated that the stipulation of rollout obligations and the imposition of stiff penalties for non-performance, does not necessarily lead to achievement of rollout in rural & remote areas. We therefore believe that rollout should not be stipulated in the license, but rather left to market forces. Under these circumstances, there would be no requirement for a Performance Bank Guarantee for unified licensees.

**BSNL:** As applicable at present.

**Palakkad District Consumers' Association, Kerala:** Answer for 25 to 27:

Should be reviewed and done away with as they only add to the costs of the end consumers.

**Midas:** The level of PBG should be reduced to zero, once the licensee meets its roll-out obligations.

**MTROA:** Answers for 25 to 27:

MTROA have conveyed their stand in their earlier response to the TRAI Consultation paper.

**Thuraya:** No comment

**Hughes:** Bank Guarantee has a cost and should be considered with notional value equal to 25% of the performance or the financial bank guarantee. This notional value should be taken into account while deciding the total registration fee

**Bharti Welfare Foundation:** No comments.

**CUAI:** The bank guarantees should be rationalized. There should only be one tier of BG's i.e. performance bank guarantee. The issue merits further consideration in detail as the cost of guarantees is ultimately borne by the consumers at large.

**Bharti:** Answers for 25 to 27:

There should not be any requirement to furnish Bank Guarantees (BGs) since they unproductively lock-up resources which could have been better utilised for expansion of network. Therefore, the whole concept of furnishing BGs should be done away with. Further, the BGs furnished by the existing operators should also be released. However, in case the total abolition of the requirement of BGs is not feasible at present, then the amount of BGs should be reduced to a minimal level.

**Reliance:** Answers for 25 to 26:

The approach for deciding the level of Bank guarantees should be same as in the case of entry fee / registration charges. As per our recommendation to Q 10, for a national unified license the PBG & FBG should be equal to the sum of such BGs for all service areas and for all service types. The level of PBG should be reduced to zero, once the licensee meets its rollout obligation.

However if the Authority decides to waive or relax rollout obligations under the unified license regime, then Bank Guarantees of existing operators should be returned immediately.

**ISPAI:** The views as expressed by TRAI on Page 37 (Para 3.1) about Zero Performance Bank Guarantee are very logical and we strongly recommend and support the same.

26. **Should the Bank Guarantees (PBG & FBG) be same for all the services in the Unified Licensing Regime or should the existing framework of Bank Guarantees be continued in the new licensing Regime?**

**RailTel:** The amount of BG (PBG & FBG) can be decided based on expected annual license fee to be paid by licensee based on anticipated revenue for a particular service and likely operators.

**Estel:** This should not be applicable for ISPs as mentioned in Item 25 above.

**BPL:** The existing framework of BGs should be discontinued. There should be no PBG. FBG could be provided either separately for each service based on the quarterly revenue for each service or one FBG of the cumulative amount for all services provided by a unified licensee.

**Spice:** As already submitted above, there should be a single FBG for the entire unified license. Further that in the absence of rollout obligations, there would be no requirement for a PBG.



**CUTS:** Bank guarantees to be in proportion to the size of operations

**CyberBazaar:** Should be a function of the Annual License Fee and Registration Fee and Service Area.

**COAI:** As already submitted above, the requirements of FBG and PBG should be done away with under unified licensing.

**BSNL:** Existing framework of Bank Guarantees may continue in the new licensing regime as well.

**Midas:** BG should be zero for all the services in the ULR.

**Thuraya:** No comment

**Hughes:** No Bank Guarantee for the class license. Nominal Bank Guarantee for IP11 at the current level and for Unified Licenses, Bank Guarantee should be equal to thrice the estimated revenue share to cover the financial and performance guarantee

**Bharti Welfare Foundation:** No comments.

**CUAI:** Service specific guarantees must not be there, the BG must be rationalized. This old and archaic system must be re-evaluated.

**ISPAI:** This should not be applicable for ISPs as mentioned in Item 25 above. FBG for those operators having to pay license fee, may be placed at a reasonable level.

**27. What should be the level of Bank Guarantees for Class Licensees and niche service providers, if such classes are considered?**

**RailTel:** The BG for class license should be normal and total value of BG could be equivalent to anticipated quarterly revenue for each services. The same should be applicable to Niche service providers also.

**VSAI:** As far as VSAT services are concerned the existing level of PBG (50 lac) & FBG (175 lac) be continued.

**Estel:** The views as expressed by TRAI on Page 37 (Para 3.1) about Zero Performance Bank Guarantee are very logical and we strongly recommend and support the same. This should not be applicable for ISPs as mentioned in Item 25 above.

**ABTO:** We have recommended in our response to Q. 26 above that the level of financial guarantee for both unified licensee and class licensee should be same.

The need for niche operators is not there since they are covered under class licenses.

**BPL:** The principles as mentioned above, should also apply to Class License and niche service providers, if the Govt. decides to issue such type of licenses.

**TATA:** The level of Financial Bank Guarantee for Unified Licence, Class Licence and Niche operator should be the same. There would not be any need for a Performance Bank Guarantee in the case of Class Licences or niche operators.

**Spice:** As already submitted above, there should be a single FBG for the entire unified license. Further that in the absence of rollout obligations, there would be no requirement for a PBG.

**CUTS:** Bank guarantees to be in proportion to the size of operations

**CyberBazaar:** Nominal of 1 Lakh per SDCA/LDCA for VAS and 2-5 Lakhs for Access Licensees per SDCA/LDCA.

**COAI:** There should be no Bank Guarantees imposed on Class Licensees and Niche operators.

**BSNL:** Existing framework to continue.

**Midas:** The level of PBG should be zero, for the Class Licensees and the niche service providers.

**Thuraya:** The Class Licensees should not be subject to any Bank Guarantees.

**Hughes:** Nil

**Bharti Welfare Foundation:** Yes, a minimum obligation package of services and geographical territory must be prescribed.

**CUAI:** No Bank Guarantees for Niche operators.

**Reliance:** For Class Licenses, Bank Guarantee amounts should be such as to avoid entry of non-serious players but should be considerably lower than unified licensee.

**ISPAI:** Please see our remarks under Item No. 25 and 26.

### Roll Out Obligations

28. What should be the roll-out obligations for different services in the licensing model that you suggest? Should we continue with service specific roll out conditions?

**Estel:** These should not be required in case of **Class Licenses**.

**SHYAM:** Answers for Questions 28 to 30  
We should continue with service specific rollout obligations.

For rural and remote the capex should be paid through as the opex is being taken care through ADC. This would facilitate faster growth of teledensity and faster economic development in the rural and remote areas.

**ABTO:** Answer for 28 and 29

Roll out obligations for different services in the suggested Unified Licensing model should be same as for Unified Access Service Licensees. NLDOs/ ILDOs who do not desire to continue may be given option to surrender the license and opt for refund of the entry fee paid or deemed paid or this amount be adjusted in their revenue share license fee of ULR.

**BPL:** Let the market forces determine the services to be provided and the geographical areas to be covered from time to time by a licensee.

**TATA:** The roll out obligations as envisaged in the existing UAS Licence should be extended to the ULR. The obligations would be to cover 10% of District Headquarters (DHQs) in the first year and 50% of DHQs by the third year. After completion of coverage of 50% of DHQs, the Unified Licensee should be free to roll out the service as desired.

**Spice:** As already submitted, once the Government moves from a regulation led policy and licensing regime to a market based unified telecom regime, then the coverage reach and access of telecom services will have to be left to the market forces and specific rollout obligations should not be prescribed under the unified license. As the main objective of roll out is to enhance telecom infrastructure in the country, rather than penalizing the operator for not meeting the obligation, there should be incentivisation for meeting the desirable roll out targets by the licensees. It would be desirable to incentivise the unified licensees to reach out in to rural & remote areas and measures such as sharing of infrastructure with incumbent & access to USO/ ADC funds etc needs to be considered.

**CUTS:** Service-specific roll out obligation should be continued

**CyberBazaar:** Economic advantages and incentives (USO fund) work better than roll out obligations, which may not be effectively enforceable. A higher origination/termination fee to rural exchanges can compensate the lower rental realization. Operators who are only urban centric will loose out if they do not penetrate to rural areas. Based on the current circle wise models, Group's of LDCA's should be distributed to the 3-5 unified access operators (excluding BSNL) and should be accountable for roll out obligations of the allotted LDCA's. Meeting rollout obligation of these groups of LDCA's (20-30% of the circle area) will be much easier to implement by private operators than insisting on all operators to meet rural obligations throughout the circle. To encourage rural investment a higher termination/origination fee may be mandated compared to urban/semi-urban termination/origination. Access operators who opt more than 30% of LDCA's in a circle should be deemed Circle Operators. Access operators who opt more than 30% of SDCA's in a LDCA should be deemed LDCA Operator. Access operators who opt 75% of A grade

and 50% of B Grade circles should be deemed National Operators and should pick up remaining B and C circles.

**COAI:**

- a. As already stated in pre-paras, stipulation of rollout obligations in the license does not necessarily ensure achievement of this objective. In a market-based policy & licensing regime, rollout should be left to market forces and not stipulated under the license. In an environment of healthy and intense competition, the objective of coverage and reach will be automatically achieved, as players will continue to venture into newer areas to seek business.
- b. If despite the state of hyper competition, operators do not rollout into certain areas, then it would be due to insuperable factors and some genuine problems, which would have to be separately examined and addressed by the Authority.
- c. In such cases, it may be practical as well as desirable for coverage of such difficult areas to be achieved through BSNL as it would be far easier as well as more cost-effective for BSNL to use its existing nationwide telecom infrastructure to reach rural / remote areas. For this purpose, BSNL would have access to the USO Fund and may also be extended some special privileges for undertaking this social responsibility.
- d. We further believe that non-specification of a rollout obligation would also help in optimal utilization of infrastructure since the operators could then rollout services on the basis of the demand for their services and thus have a reasonable chance of achieving a good utilization.

**SNL:** Service specific roll out obligations may continue.

**Palakkad District Consumers' Association, Kerala:** Answer for 28 to 30:

The imposition of stiff penalties for non-performance & stipulation of rollout obligations does not necessarily lead to achievement of rollout in rural & remote areas.

**MTROA:** Answers for 28 to 30:

If service area is a city :

As in the existing Licence

If Service area is a Circle :

60% portion of a State Highway or 60% portion of the National Highway going through the State within 2 years along with all the connecting towns and cities.

The roll out obligation should be specified as providing network infrastructure and coverage within 2 years from the date of spectrum allocation, failing which the spectrum shall have to be returned by the defaulting operator.

**Thuraya:** It is easy for the already in-operation satellite service providers in general and the GMPCS service providers in particular to meet the roll out obligations.

**Hughes:** Answers for 28 to 30:

Market forces should decide the rollout. USO operators should be responsible for covering the uneconomical areas.

**Orissa Consumer's Association:** Answer for 28 to 30

- (A) There should be combination of rural and urban area and roll out be permitted. The licensee who opt for rural or commercially unremunerative area can be funded by

- U.S. Ofund and periodical review be made to see whether obligations are discharge or not.
- (B) There should be roll out obligation under U.L.R for all facility-based operator or who intend to provide such facilities to be identified/ specified and to be reviewed by T.R.A.I. on six monthly basis.
  - (C) Licences fees should be based on 5% of the volume of business and as suggested earlier.

**Bharti Welfare Foundation:** Yes.

**CUAI:** Yes, Service specific roll out obligations with a minimum guaranteed geographic coverage and services roll out be ensured. Policy after policy has failed to achieve benchmarks in roll out of network. The Unified Licensing Regime is a turning point in the telecom sector when the earlier mistakes can be rectified.

**Bharti:** Answers for 28 to 30:

It is submitted that as is the case with Entry Fee and BGs, parity should be maintained between all existing and new operator for Roll-Out Obligations as well. Therefore, either such Roll-Out obligations should be abolished for all operators or retained for all.

The Roll-Out obligations for Class Licensees should be retained at existing levels.

**Reliance:** Answers for 28 to 29:

To avoid cherry picking or entry of non-serious players, who can skew the market, we suggest that service specific rollout obligations should continue.

Thus, for a national level unified license the rollout obligation for UASL, NLDO as well as ILDO will be applicable whereas in case of a circle level unified access licensee present UASL rollout obligation should continue.

**ISPAI:** These should not be required in case of **Cass Registration**.

**29. Should we consider imposing roll out conditions of UASLs on all Unified Licensees?**

**RailTel:** The roll out obligations as specified for UASLs should be specified under unified licence also. It is to ensure that service provider covers all areas including remote, rural and less developed area rather than concentrating only areas resulting in high revenues. In regards to rollout for NLDO, since the same has been suggested in class license, as such roll out obligations as proposed for class license would be applicable.

**Estel:** These should not be required in case of **Class Licenses**.

**BPL:** As recommended above, there should be no roll out obligations prescribed under the new regime. The same may also apply to existing UASLs who do not migrate to the new regime.

**TATA:** Yes, with a view to maintain level playing field, roll out obligations should be imposed on all Unified Licensees.

**Spice:** As stated above, we believe that in a market lead licensing & regulatory environment, it may not be desirable to impose rollout obligations on the licensees and coverage and reach of services under the license should be left to market forces.

As regards the objective of rollout obligations, incentivisation of unified licensees needs to be considered. Additionally, BSNL, the incumbent operator could be given the status of

the default USO operator responsible for meeting universal service obligations as also the responsibility of bridging the digital divide to reduce the tele density disparities that exist across the country. This would be most practical as well as desirable as BSNL has the most widespread telecom infrastructure in the country and it would be far easier as well as more cost-effective for BSNL to use its existing infrastructure to reach rural / remote areas. For this purpose, BSNL would have access to the USO Fund as also its huge accumulated reserves for discharging this obligation. In addition, BSNL could also be entitled to some special privileges for undertaking this social responsibility. Further, any other service provider wanting to provide services in rural/remote areas could also be subsidized appropriately through USO funding mechanism.

**CUTS:** The existing system may ' continued provided measures are taken to for its strict compliance.

**CyberBazaar:** Economic advantages and incentives (USO fund) work better than roll out obligations, which may not be effectively enforceable. A higher origination/termination fee to rural exchanges can compensate the lower rental realization. Operators who are only urban centric will loose out if they do not penetrate to rural areas. Based on the current circle wise models, Group's of LDCA's should be distributed to the 3-5 unified access operators (excluding BSNL) and should be accountable for roll out obligations of the allotted LDCA's. Meeting rollout obligation of these groups of LDCA's (20-30% of the circle area) will be much easier to implement by private operators than insisting on all operators to meet rural obligations throughout the circle. To encourage rural investment a higher termination/origination fee may be mandated compared to urban/semi-urban termination/origination. Access operators who opt more than 30% of LDCA's in a circle should be deemed Circle Operators. Access operators who opt more than 30% of SDCA's in a LDCA should be deemed LDCA Operator. Access operators who opt 75% of A grade and 50% of B Grade circles should be deemed National Operators and should pick up remaining B and C circles.

**COAI:**

- a. As also noted by the Authority in its final Consultation Paper, different service licenses have different rollout obligations attached to them. To unify the rollout obligations at the UASL level as suggested above would result in easing the rollout obligations of the NLDOs while increasing the rollout obligations of the ILDOs. As we are firmly of the view that the existing licensees should be no worse-off under the new regime, it would not be appropriate to prescribe UASLs rollout on all Unified Licensees as this would be in conflict with the principle of no-worse off and could also prove to be a deterrent to existing operators to migrate to the new regime.
- b. Further as already submitted by us, rollout should be left to market forces rather than be mandated under license.

**BSNL:** There is practically no roll out obligation on UASLs. This is discriminatory vis-à-vis stand alone basic operators. The roll out obligations should be made more stringent for equitable development of the entire country and to bridge the digital divide.

**Thuraya:** No comment

**Bharti Welfare Foundation:** Must be fully defined in terms of services and territories.

**CUAI:** Yes.

**ISPAI:** Not relevant for ISPs under Class Registration.

30.

**What type of roll out obligations be imposed on Class licencees and niche (for rural, remote and under developed areas) Service Providers?**

**RailTel:** At present the services which are proposed under class license except for NLDO, the roll out obligation is either not there or is quite nominal. It is proposed that roll out obligations for all services should be similar to services under unified licensing so that service provider do not take licenses for name sake but should cover all areas including remote, rural and less developed areas.

**Estel:** These should not be required in case of **Class Licenses**.

**ABTO:** Roll out obligations for class licensees (which will include niche operators) for providing respective services should be minimal and in line with what is existing today.

**USF:** To achieve the state of "telephone on demand" within a prescribed time frame after which any application for a telephone should be complied within a reasonable period of time, say 15 days or so. They would be required to maintain a waiting list and no request for a telephone should be denied unless the applicant has history of payment default.

**BPL:** There should be nil roll out obligations for such licensees.

**TATA:** There should be no roll out obligations on Class Licenses and niche service Providers. As it is, the niche service providers shall be providing service in the rural areas or at SDCA level.

**Spice:** The roll out need not be prescribed by the licensor, on the other hand it should be left to the market forces & the business viability of such operators.

**CUTS:** The existing system may be continued provided measures are taken to for its strict compliance.

**CyberBazaar:** Not Required.

**COAI:** Rollout obligations should not be mandated / imposed on Class Licensees or Niche Operators for the same reasons as given in pre-paras

**BSNL:** Time bound non-discriminatory provision of services in the entire service area of their licences.

**Midas:** The niche operators should commit minimum numbers, which can be reviewed by the Licensor.

**Thuraya:** The Class Licensees should not be subject to roll out obligations. The basic concept and idea behind the Class Licensing is that the services that are classified under Class License be subject to minimum regulatory control.

**Bharti Welfare Foundation:** Service specific.

**CUAI:** Yes, Must be mandated.

**Reliance:** Roll out obligations for class licensees for providing respective services should be minimal and in line with what exists today.

**ISPAI:** Please see our response to Item No. 28.



### Interconnection

#### 31. What should be the interconnection regime in the suggested Licensing model for ULR?

**Estel:** In respect of ISP service, TRAI has already established that ISP service does not come under the inter-connection regime.

**SHYAM:** Answers for Questions 31 to 34  
The service specific interconnection regime should continue.

Implementation of carrier pre selection should be postponed for few years.

Interconnection of niche operators should be based on the existing inter connection

Model based on the offering to the customers.

**ABTO:** Answer for 31 and 32

Interconnection is the foundation of telecom services and must be mandated for all operators. It is also desirable to have some form of special provisions for interconnection obligations on the incumbent/ SMPs. For class licensees, viz, ISPs, PMRTS etc (as proposed), the existing interconnection regime should continue.

Interconnection policy should be such that existing POIs which have been set up at huge investments are not disturbed. Any change will cause huge losses.

- It must be mandatory upon operators to provide interconnection when approached.
- Interconnection should not be service specific and offered at mutually agreed points as an obligation.
- With the advancement of technology the choice of network architecture should be left to the service providers.
- Both parties should pay set up costs for outgoing links
- Reference Interconnect Offer (RIO) should form the basis of commercial interconnect agreement between the incumbent/ dominant operator and licensed operators who should have a right to interconnect.
- Incumbent / dominant operator should publish Reference Interconnect Offer (RIO) as a means of ensuring open and non-discriminatory access to interconnection.
- RIO is required to be updated and re-approved on an annual basis.
- Co-location facilities on fair & non-discriminatory terms & co-location charges – part of RIO to be mandated by TRAI.

Location of POIs should be mutually agreed upon. Since, under Unified Licensing, one operator may provide both fixed line and mobile services as well as NLD/ILD etc. using common infrastructure, uniform interconnection regime will have to be mandated for all types of services. Direct interconnection at all technically feasible points subject to network integrity being maintained, should be allowed. It should be up to the seeker to decide as to where to get his network interconnected to the provider's network.

**BPL:** Answers for Question No. 31 & 32

i. Direct interconnection between various service providers for each service i.e. fixed line, cellular mobile, NLD, ILD etc. should be mandated.

ii. Direct inter circle connectivity should be permitted between operators in adjacent circles



for terminating the traffic originating in their respective networks. This should be permitted even to the existing licensees who do not migrate to the new regime.

**TATA:** LDCA based interconnection regime should be adopted under the Unified Licence Regime. However, the choice of Network Architecture should be left to the service provider. The service provider should be free to decide and opt for network architecture of its choice.

There should be no regulation to define the level of POI as long as POI meets the TEC specifications.

**Spice:** Since the objective of present exercise is 'unification of licenses' & not the services, the present service specific interconnection should be continued under unified licensing regime. Once the concept of "Interconnect Exchange cum Inter-Carrier Billing Clearing House" get implemented, most of the existing interconnection issues of duplication of infrastructure & disputes would get addressed.

**CUTS:** Interconnectivity should be mandatory and the player should not be allowed to abuse its monopoly position

**CyberBazaar:** Universal Interconnection with Two Way PSTN connectivity, all types of operators can connect to each other. Interconnection should be equi-access and fair priced. Only Access providers can provide transit facilities (VAS providers shall not provide transit facilities).

**COAI:**

- a. Interconnection should be non-discriminatory and uniform for all access services under a unified license.
- b. Further, special rules as well as commercial and technical obligations, including regulation of tariffs must be applied to operators with significant market power (SMP), especially in infrastructure.
- c. Except under extraordinary circumstances, direct interconnection between various service providers should be mandatory under unified licensing
- d. Publication of RIO by all operators including the incumbent must also be made mandatory as this will safeguard consumer interest as well as take care of the concerns of smaller / pure-play/ new operators.

**BSNL:** Service specific interconnection regime as applicable at present should continue.

**Palakkad District Consumers' Association, Kerala:** Answer for 31 to 34:  
The existing service specific interconnection has resulted in sub-optimal routing and higher costs for both the consumers and the operators for some services.

**Thuraya:** The interconnection regime should be based on technical and commercial feasibility between the concerned operators.

**Hughes:** Free interconnectivity based on the current IUC structure.

**Orissa Consumer's Association:** Answer for 31 to 34

- (A) Interconnection be made mandatory having unified numbering system.
- (B) Inter circle traffic shall have to carried through unified license holder.
- (C) Networks interconnection at various level should be encouraged and used freely so that there would be no duplication of infrastructure for which cost will be loaded on

- the end user/ customers/ consumers, so that cost of service would reduced to affordable rate for common men.
- (D) YTAI should keep close watch and work as watchdog to see that some operators joining hand and manipulating the system adopt unfair trade practice to make undue gain and exploit the consumers/ customers by forming a cartel.

**Bharti Welfare Foundation:** Yes.

**CUAI:** It should be service specific.

**Bharti:** Answers for 31 to 34:  
It is submitted as under:

- a) In our opinion, there should a common level of interconnection for all types of services. It is desirable that a single level of Interconnection should be identified and handover from and to all types of networks should be mandated at that level. It should also be borne in mind that upon such handover being made, no additional Carriage Charges should be payable.

Each operator should be mandated to bring the traffic to such a Level of Interconnection at its own cost and also to carry traffic from such level. However, operators who are unable to establish such network, may avail the services of carriers, at rates that are mutually agreed or as may be prescribed in the IUC.

- b) Currently, the Interconnection Agreements between the Incumbents and Private Operators, unilaterally allow the Incumbents to make Handover at Near-end or Far-End as per their choice. Such a privilege is not available to the Private Operators. This is discriminatory and should be disallowed.

- c) Carrier Pre-selection/Call-by-Call Selection
- It is desirable to expedite the introduction of Carrier Access Code (CAC)/Carrier Pre-Selection (CPS). When the National Long Distance sector was thrown open for private participation, the National Long Distance Operators (NLDOs) were assured that the ultimate subscribers would have a choice of Carrier through CAC/CPS. However, the inordinate delay in implementation of CAC has seriously affected the business case of the Carriers. For a successful implementation of CAC, it is imperative that all operators including incumbents, simultaneously implement the same in their networks, at no additional cost to the Carrier. It is pertinent to mention herein that the cost of implementation of CAC/CPS should be borne by each individual operator, including the incumbents, for its own network.

**Reliance:** Answers for 31 to 32:

The interconnection framework in the new regime should reflect the basic tenets of the unified regime, namely: technology neutrality, service independent interconnect points, freedom of network architecture and mandatory interconnection for all services.

As far as Points of Interconnection with different operators is concerned, the Unified Licensing regime should ensure that existing service providers are protected and not required to abandon their present infrastructure (and the huge investments made to create them) already in place. With the exception of the current Pols and corresponding infrastructure of the existing operators already in place, TRAI should mandate that any further Pols including the levels at which they should be located should be at the discretion of the unified/class licensee.

For all operators, including incumbents, direct interconnection with all service providers should be mandatory. To implement a non-discriminatory and reciprocal interconnection regime, the incumbent should be mandated to offer a Reference Interconnect Offer along

with charges for the interconnection infrastructure such as port, space, power, collocation charge etc

In the case of class licenses the present interconnection regime along with restrictions on PSTN connectivity should continue to ensure a level playing field with the unified licensees.

Under the unified license, operators should be free to use the same infrastructure for provisioning of different types of services. However, the charging principles for different services should be continued based on the present IUC regime. If not, it may lead to discriminatory treatment across licenses. For example fixed line under unified license should be subject the same IUC charges as applicable for the fixed line under basic license (who has not migrated to the unified license)

**ISPAI:** TRAI must establish a rule-based, predictable, forward-looking and consistent framework to define ISPs role in the interconnection regime.

While in 1999, TRAI had decided that ISPs were under the interconnection regime in 2003, it decided to the contrary.

32. **Should service specific interconnection regime be continued in ULR?**

**RailTel:** It is proposed that inter connection should permit any to any connectivity as existing in Australia. However, it should be mandatory for service provider to interconnect when approached, and maximum period for inter connection say 3 months be specified.

**Estel:** Not for ISPs

**TATA:** Yes, the service specific interconnection regime should be continued with. The choice of Network Architecture should be left to the service provider. The Service Provider should therefore be allowed to share its switch (s) for different services and the interconnection for different services should be allowed through the same switch.

**Spice:** The concept of ADC under the existing IUC regime is based on the type of service & thus under present conditions the service specific interconnection regime needs to be continued.

**CUTS:** Interconnectivity should be mandatory and the player should not be allowed to abuse its monopoly position

**CyberBazaar:** NO. Universal as above

**COAI:** The concept of service-specific interconnection should be done away with for access services under unified licensing regime. Prevalent service specific interconnection regime has resulted in sub-optimal routing and higher costs for both the consumers and the operators for some services. Continuation of such anomalous interconnection arrangements would be undesirable in the light of technology neutrality and unified licensing. Interconnection should be non-discriminatory and uniform for all access services under a unified license.

**BSNL:** Our comments are as above.

**Thuraya:** No comment

**Hughes:** Answers for 32 and 34:  
Free interconnection for Unified Licenses. Interconnection for Class and Infrastructure Licenses should be through Unified License Services

**Bharti Welfare Foundation:** Yes. It must be there for even local calls.

**CUAI:** Yes, It should be service specific.

**ISPAI:** No, there should be a unified interconnection regime as well.

33. **Should the carrier pre-selection /call-by-call selection be implemented in Unified Licensing Regime for all types of calls other than local calls?**

**RailTel:** It is necessary to permit CPS and regulator should see that this is implemented in shortest possible time. Incumbent operator should be forced to implement by upgrading switches. It is also suggested that in case it is not possible to implement this in one stroke, it can be implemented city-wise as most of the switches existing in major cities would be supporting CPS. This is necessary so that stand alone NLD/ILD operators can have share of out going calls and it should be possible for public to select best options for long distance calls. This will also permit resellers to have some business and ultimately benefit public due to reduced costs.

**Estel:** Not for ISPs.

**ABTO:** Carrier pre-selection/ call by call selection may be implemented in Unified Licensing Regime for all types of calls other than local calls simultaneously for all operators including incumbent.

**BPL:** The Authority may examine the cost and benefits of introducing CAC/Carrier pre-selection before taking final decision in this regard. In case it is decided to implement such a system, the cost of implementation must be borne by each operator (including BSNL/MTNL) for upgrading their respective networks.

**TATA:** Yes, carrier pre-selection / call-by-call selection should be implemented in Unified Licensing Regime. The same should be made applicable **simultaneously** for to all service providers including the incumbent operators viz., BSNL, MTNL.

**Spice:** The Authority must examine the costs and benefits of introducing carrier pre-selection before taking a decision in this regard. If carrier pre-selection is to be introduced, then the cost of implementation must be borne by each individual operator for his own network.

**CUTS:** Yes

**CyberBazaar:** Only required for ILD calls. Carrier selection on NLD calls may not be needed as subscribers view quality of NLD calls part of the access provider and will change if not satisfied.

**COAI:** The Authority must separately examine the costs and benefits of introducing CAC / carrier pre-selection before taking a decision in this regard. If carrier pre-selection is to be introduced, then the cost of implementation must be borne by each individual operator (including BSNL / MTNL) for their own networks.

**BSNL:** Carrier pre-selection / call-by-call selection has no relevance in the present scenario and need not be implemented.

**Thuraya:** No comment

**Hughes:** Yes

**Bharti Welfare Foundation:** Need based. They must be considered for special waivers.

**CUAI:** Yes, Merits further evaluation on the costing & implementation part.

**Reliance:** The primary deterrents for introduction of carrier selection are cost of upgradation, sharing of these costs and the associated benefits if any for the service providers involved. Therefore we would request the Authority to conduct a cost benefit analysis involving all the issues in this matter prior to taking any decision on carrier selection under unified license.

**ISPAI:** Not for ISPs.

34. **What should be the approach to interconnection for niche operators?**

**RailTel:** Inter connection for Niche operator should be similar to unified service and it can be of LDCA level.

**Estel:** Not for ISPs.

**ABTO:** Same as for Class Licenses.

**USF:** Interconnection should be mandatorily provided on most favorable terms.

**BPL:** In our opinion, niche operators having LDCA/SDCA based systems will create enormous interconnection problems. It will also not be financially viable. We, therefore, do not recommend issuing of such licenses.

**TATA:** In case of niche operators the interconnection could be at the SDCA level.

**Spice:** Since the service area for such players is going to be the rural areas, below circle level, the interconnection implications needs to be addressed along with other issues of numbering, spectrum, security/ monitoring etc

**CUTS:** Same as for other operators

**CyberBazaar:** Interconnect should be provided at the closest point of the dominant operator.

**COAI:** Unable to comment at this stage.

**BSNL:** The service specific interconnection regime has to be uniform for all types of operators including niche operators. However, the issues relating to interconnections become more complicated with the small operators.

**Midas:** Interconnect should be made mandatory for the incumbent at the local SDCA.

**Thuraya:** No comment

**Bharti Welfare Foundation:** No, Existing numbering plan not be tempered.

**CUAI:** Need based exceptions can be considered in their case.

**Reliance:** As detailed in our response for Q. 15, the concept of niche operators should not be implemented.

**ISPAI:** Not for ISPs.

## Numbering

35. Is there a direct linkage of Numbering Plan vis-a-vis implementation of Unified Licensing regime?

**Estel:** Not for ISPs.

**SHYAM:** Answers for Questions 35 & 36  
The issues of numbering are not related to the issue of ULR.

**ABTO:** Answer for 35 and 36  
There is no direct linkage of Numbering Plan vis-à-vis implementation of Unified licensing regime. Most of the numbering issues are taken care of in the Unified Access Service Regime.

**BPL:** Answers for Question 35 and 36

The existing service specific numbering scheme should be continued. The registration charges should include the charges for number allocation. Each operator should be allocated specific set of numbers based on the services it decides to rollout and the actual/anticipated number of subscribers from time to time. This will avoid any major changes in the existing numbering plan for more than 70 million fixed line and cellular subscribers. However, keeping long term benefits in view, switch over to LDCA based linked numbering for fixed services may be considered.

**TATA:** Answers for Question 35 and 36  
In our view, there is a direct linkage between the numbering plan and implementation of Unified Licensing regime.

There should be no change in numbering scheme and the existing numbering scheme should continue for full mobility subscribers.

However for fixed line and limited mobility subscribers there should be an LDCA based numbering scheme, wherein the LDCA replaces the SDCA as the local area. The main advantages of the same are listed below:

- i) Fewer points of interconnection. Interconnectivity at SDCA level leads to many more points of interconnection with the resultant delays and lack of capacity etc. This gets reduced drastically by almost 85% in case the connectivity is shifted to the LDCA level.
- ii) There will be less than 350 National STD codes instead of more than 2600 codes.
- iii) Local calls in the entire LDCA, will be customer friendly.
- iv) Simplified inter-network connectivity and accounting.
- v) Simplified tariff setting.

**Spice:** The existing numbering plan for each service may be continued even under the new regime. The registration charges should include the charges for number allocations as well.

**CUTS:** No

**CyberBazaar:** No

**COAI:**

- a. Existing numbering plan for each service may be continued even under the new regime.

- b. All competing operators must have comparable numbering plans including the number of digits that a customer has to dial to access a competing service.

As already submitted, the registration charges should include the charges for number allocation.

**BSNL:** No, there is no linkage between the two. The service specific Numbering Plan can be implemented in the Unified Licensing Regime as well.

**Palakkad District Consumers' Association, Kerala:** Answer for 35 to 36:

Even under the new regime the existing numbering plan for each service may be continued. All competing operators must have comparable numbering plans including the number of digits that a consumer has to dial to access a competing service.

**MTROA:** Answers for 35 to 36:

If a numbering scheme is availed of, charges for the same may be levied at par with other services, but proportionately reduced for the restricted numbering scheme proposed for the Class License.

**Thuraya:** The GMPACS systems have been assigned specific country codes by the ITU and as such the GMPACS systems implement their own numbering scheme within each country under such their respective assigned country code. Therefore there is no burden on the national numbering resources.

**Hughes:** No comment

**Orissa Consumer's Association:** Answer 35 to 36

- (A) A frequent revision of numbering scheme is highly undesirable and creates confusion and dissatisfaction among the people/customers.
- (B) Keeping in view, the rapid growth of subscriber base and considering geographical area of our vast country, numbering plan be reviewed considering the future requirements and trends including e-Num and technology development.
- (C) Digit in a telephone number must not exceed beyond '10' because to remember the same by the customers area is cumbersome and taxing, harassing.
- (D) LDCA based S.T.D. code be adopted which will be beneficial to consumers.

**Bharti Welfare Foundation:** Please the numbers of mobile phone services to 9\*XXXXXXXXXX plan.

**CUAI:** No Linkage between the numbering plan & UAL is there, existing numbering plan not to be changed.

**Bharti:** Answers for 35 to 36:

In view of the implementation of Unified Access Services License, it is necessary to make the following changes in the Numbering Plan:

- To ensure greater uniformity between services, a standard 10 Digit Numbering Plan should be formulated for a Unified Licensing Regime.
- Such a numbering plan should address the following issues:
  - a) The digits in the numbering scheme prescribed for Mobile and Fixed- Line numbers should be different since the IUC pay-outs including ADC differs depending on the nature of the networks involved in the call.

- b) For mobile numbers, the numbering plan should be Circle based whilst for Fixed phones, it should be LDCA based linked numbering scheme.
  - c) The charging areas should be reduced to LDCA's in line with interconnect proposed as per the fourth CMSP license.
  - d) Handover/Pickup of intra-circle mobile and fixed calls should take place either at Level-I TAX or LDCC TAX.
- LDCCs should be treated as rate centres and subsequent to introduction of a LDCA based linked numbering plan, the STD codes should be reduced to LDCA level. This will lead to a more optimal numbering plan to cater for different mobile and fixed numbering schemes in the long run.

**Reliance:** Answers for 35 to 36:

Although there is no direct linkage of numbering plan vis-à-vis implementation of licensing regime, the Authority should keep in mind long term objectives such as number portability, fixed mobile convergence, Internet based numbering (E-NUM) and related issues before recommending a service specific numbering regime.

For example, as a result of fixed-mobile convergence, internationally operators such as BT (under Bluephone), O2 (under Genion), Singapore Telecom (under PhoneNet), Belgacom (under Belgacom Duet) are offering mobile as well as fixed type of service on the same handset with the same number so as to enable consumers to avail benefits of both technologies simultaneously. The idea behind all these emerging services is to offer mobile and fixed calls through a single device, single bill and with a single number.

In view of this, while taking decisions regarding service specific regulations in terms of numbering, the Authority should ensure that the benefits of convergence and unification are not denied due to the issue of numbering.

**ISPAI:** Yes.

For example, in case, more than 8 operators go in for the 'All-in-one Unified License' the current numbering plan would be unable to meet the requirement.

36. If yes, what are the specific unavoidable changes required in the present Numbering Plan keeping in view the fact that frequent changes in the consumer numbers is highly undesirable?

**RailTel:** No comments.

**Estel:** Not for ISPs

**Spice:** The existing numbering plan for each service may be continued even under the new regime. The registration charges should include the charges for number allocations as well.

**CyberBazaar:** Since the UAL it is necessary that we to LDCA based numbering scheme for all GSM/CDMA.

**COAI:** Not applicable.

**BSNL:** As stated above, no changes are required in the existing Numbering Plan. However, if the small niche operators are to be licensed at the SDCA level, the present Numbering Plan may not be adequate to address their requirement.

**Thuraya:** No comment



Hughes: No comment

Bharti Welfare Foundation: Yes, Without any delay.

CUAI: Does not merit change.

ISPAI: It would be desirable to have the LDCA as the basic unit for the numbering plan rather than the SDCA.

In fact, National Numbering Plan must move towards EPCU so that it is future-proof.

Inter-Circle connectivity and Infrastructure Sharing: licensing aspects

**37. Should inter circle connectivity be permitted to Access providers (Basic, Cellular and UASL)?**

**Estel:** Yes

**SHYAM:** Answers for Questions 37 to 44

Inter circle connectivity should be permitted to Universal Access Service Providers both for contiguous and non contiguous service areas on optional basis.

Infrastructure sharing should be encouraged and charges for Co – location etc. must be mandated by TRAI.

There should be flexible inter connection arrangement for Universal Access service providers, for direct inter circle connectivity by passing the NLDO. For calls to be handed over the NLDO, TRAI may decide traffic handing over principles for Access providers and NLDs.

TRAI must come out with a paper on testing procedures & charges being levied by BSNL.

Further all calls between all Access networks should be at LDCA level facilitating free and fair interconnection.

**BPL:** Answers for Question 37, 38 and 39

Yes, inter circle connectivity to adjacent circles should be permitted to the existing Access Providers who do not migrate to the new ULR. However, since the operators having Unified License will be permitted to provide NLD Services, they may be allowed direct inter circle connectivity across non-contiguous service areas as well.

**TATA:** Answers for Question 37 and 38

Yes. Since the Unified Licence includes NLD as an integral part, direct connectivity across contiguous and non-contiguous circles would be permitted to all the Unified Licensees. This will enable better utilization of infrastructure and would also result in lower tariffs for consumers.

It is important to recognise here that inter-circle connectivity to all the players would effectively kill the "independent NLD" business model if direct access to customers is not mandated. We would like to reiterate that IN Services, CAC and Pre-selection should be implemented simultaneously with the direct interconnectivity permission.

**Spice:** Direct inter circle connectivity implies terminating of own subscriber traffic in another circle / service area. Direct inter-circle connectivity can be of two types :

- Adjacent / adjoining circle connectivity
- Anywhere to anywhere connectivity

We believe that in an environment of open competition in all services including long distance services, there is no rationale to prohibit services that are possible through available technology and on existing infrastructure, which needs to be utilized to the fullest extent. We believe that after first phase of unification at Access level, as next step the total unified license will also include under it the right to offer long distance services, a unified telecom licensee should be permitted to interconnect across non-contiguous circles including anywhere to anywhere traffic if he so desires.

As regards fixed, mobile and UAS licensees who choose to stay under the existing licensing regime, we believe that for them direct inter-circle connectivity will entail only

termination of own subscriber traffic in adjacent / adjoining circles only and not anywhere to anywhere connectivity.

Further, the Direct inter-circle connectivity would be in the best interests of subscribers as it would ensure:

- i. Increased competition and a further lowering of long distance tariffs and growth of services, which will benefit the end-consumer.
- ii. Serving communities of interest across borders
- iii. Optimal utilization of the existing infrastructure of all operators who have made significant capital investments in putting up their networks.
- iv. Creation of a back up network, which could be useful in the event of natural or man-made calamities.
- v. Lessening of the load on infrastructure of the incumbent operator who is presently coping with large traffic volumes leading to congestion of its networks and poor call quality.

**CUTS:** Yes

**CyberBazaar:** Yes

**COAI:**

- a. The very rationale enunciated by the Authority in introducing unified licensing i.e. removing artificial barriers imposed on operators, blurring of boundaries and ability of operators to offer services using a particular technology, etc, requires that direct inter-circle connectivity should be permitted.
- b. Permitting direct inter-circle connectivity would also help in addressing an existing anomaly wherein BSNL by virtue of its all India license is interconnecting across borders, thus offering a facility that is presently denied to private operators. In this context, attention may be drawn to BSNL mobile offering local call tariffs between Tamil Nadu and Chennai.
- c. Permitting direct inter-circle connectivity would also be in the best interests of consumers as it would ensure:
  - vi. Increased competition and a further lowering of long distance tariffs and growth of services, which will benefit the end-consumer.
  - vii. Serving communities of interest across borders.
  - viii. Optimal utilization of the existing infrastructure of all operators who have made significant capital investments in putting up their networks.
  - ix. Creation of a back up network, which could be useful in the event of natural or man-made calamities.
  - x. Lessening of the load on infrastructure of the incumbent operator who is presently coping with large traffic volumes leading to congestion of its networks and poor call quality.
- d. Under unified licensing, an operator should be permitted to directly interconnect across adjacent and non-contiguous areas (anywhere to anywhere), as the right to offer long distance services is part of a unified license.
- e. A circle based service provider with a unified license for his service area will get the following rights:
  - a. Access Right to offer all types of access services within his service area.
  - b. National Long Distance
    - Right to carry long distance traffic of any subscriber within his licensed service area (including subscribers of other operators)
    - Right to carry national long distance traffic outside his service area (upon entering into appropriate agreements / arrangements with other service providers) for his own subscribers as well as for subscribers of other operators.

- c. International Long Distance
  - Right to set up an International gateway in his licensed service area for catering to ILD calls to & from his licensed service area
- f. An all India unified telecom licensee on the other hand will be able to provide access services throughout the country. Further, he will be able to pick up the NLD traffic of any subscriber anywhere in the country and carry it to any national or international destination.
- g. This approach would also help develop the plurality of players in long distance and ensure widespread and ample competition in this segment. Under these circumstances as also for reasons stated in pre-paras, it again may not be necessary to stipulate rollout obligations for NLD / ILD.
- h. For Fixed, Mobile and UASL operators who choose to stay under the existing regime, this inter-connectivity should be confined to adjacent / adjoining circle connectivity and these service providers should only be allowed to terminate their own subscriber traffic in the Fixed, Mobile or UASL operators' network in adjoining / adjacent circles only. We believe that this approach is provided for under NTP-99 which considered direct inter-circle connectivity as 'a part of the structure of opening up of the national long distance sector' and not as a full-fledged NLD operation.

**BSNL:** No. This will give undue advantage to the UASL and will adversely affect the viability of NLDOs or all India based Unified Telecom Service Licensees.

**Palakkad District Consumers' Association, Kerala:** Answers for 37 to 44:

Sharing of Infrastructure and direct Interconnectivity across service areas:  
Infrastructure sharing should be permitted and encouraged between different operators in the same service area and between the same operator in different service areas which will also help speedup the growth process.

**MTROA:** Answers for 37 to 44:

If Service area is a city (SDCA/LDCA) :

Inter service area connectivity through a Licensed FBO providing NLD service.

Infrastructure within the service area may be allowed to be shared.

If Service area is a Circle :

Inter service area connectivity through a licensed FBO providing NLD service

The PMRTS operator may be allowed to interconnect sites within the service area by leasing NLD infrastructure from a Licensed FBO providing NLD Services.

In order to ensure a 'no worse off' situation for any of the existing operators, the PMRTS operator be subjected to the same 'point of interconnect' and tariff rigor that is applicable to a CMTS Licensee for Intra service area calls.

However the interconnection regime applicable to the Class Licensee should not result in any unfair advantage to the Licensee. The interconnection regime when being examined for a specific Service should be decided based on meeting all the needs of the niche customer/customer segment/geographic scope without competing significantly with broad based FBO services.

Sharing of Infrastructure

The choice of infrastructure sharing across service areas should be left to the operators

and the market forces, at the same time ensuring a 'no worse' off scenario for other operators (viz NLD operator)

**Thuraya:** No comment

**Hughes:** Only if the operator has opted for NLD under Unified License

**Bharti Welfare Foundation:** Yes of course.

**CUAI:** Benefits of technology must not be denied to the consumers. Direct circle connectivity across operators be permitted without prejudice as the same has direct implication in the increased competition & lowering of tariffs.

**Bharti:** Answers for 37 to 40:

According to the Unified License model developed by us, a Unified Licensee shall be entitled to provide Access, NLD & ILD Services throughout the country.

In the event, an Access Provider chooses not to migrate to the Unified Licensing Regime, such a provider shall continue to be subject to the existing Regulations governing the 'Service-Specific Licenses'. Accordingly, such Access Provider shall be required to avail the services of an NLDO to carry its Inter-Circle traffic.

It is desirable that Infrastructure Sharing be encouraged between service providers for optimal utilisation of existing resources. Further, sharing of Group Resources should be permitted to Integrated Operators. For example, if certain E1s have been provided to an Operator's wire-line operation, the use of same should be permitted to the Group's wireless operations, long distance operations etc. so long as separate trunk groups are established. This shall be advantageous not only for the Integrated Operator, but shall also reduce the pressure on the incumbent to provide E1s separately for different services.

It is also submitted that the Incumbents should be mandated to allow private operators to share their infrastructure such as Towers, Masts and Poles etc. Co-Location of equipment should also be permitted. However, sharing of Active Infrastructure (electronics) should be left to mutual agreement between parties. However, Group Companies should be allowed to share the same, and the incumbents should not raise any objections in this regard.

**Reliance:** Answers for 37 to 38:

When TRAI recommended implementation of the Unified Access Licensing Regime in October 2003, the key criteria was maintaining of level playing field between existing operators and new entrants. Towards, this appropriate entry fees and charges were levied for migrating to the new regime. This principle should continue in order to ensure level playing field to all operators in the sector.

Keeping the above in mind, no direct connectivity should be permitted to Access Providers without them having paid the existing entry fee for the privilege of carrying inter-circle long distance traffic. The right to carry inter-circle calls should remain only with national level unified licensees / NLDOs.

38. **ISPAI:** Yes.

**Should direct interconnectivity be also permitted across non- contiguous service areas?**

**RailTel:** It is proposed that above connectivity should be permitted only when Access provider takes NLD license which is proposed under class license.

**Estel:** Yes

**Spice:** As stated above, a unified telecom licensee, by virtue of having the right to offer long distance services under the UTL, must be allowed to interconnect across non-contiguous service areas.

**CUTS:** Yes

**CyberBazaar:** Yes

**COAI:** As stated above, a unified telecom licensee, by virtue of having the right to offer long distance services under the unified telecom license, must also be allowed to interconnect across non-contiguous service areas.

**BSNL:** As above

**Thuraya:** No comment

**Hughes:** Only if the operator has opted for NLD under Unified License.

**Bharti Welfare Foundation:** Yes, Without any discrimination all operators whether service specific or UAL must be allowed direct interconnection as the same leads to reduced costs.

**CUAI:** Yes, Connectivity should be provided across non-contiguous areas for reasons mentioned above.

**ISPAI:** Yes

39. In case migration to Unified Licensing Regime is optional, then should the inter-circle connectivity be permitted to those Access providers who do not migrate to Unified Licensing Regime.

**RailTel:** Not applicable, as we have proposed migration to unified licensing regime as essential.

**Estel:** Yes.

**ABTO:** Inter circle connectivity should not be permitted to those access providers who do not migrate to Unified Licensing Regime.

**TATA:** No, inter-circle connectivity should not be permitted to those service providers who do not migrate to Unified Licensing Regime. This will work as an incentive for the service providers to opt for Unified Licensing Regime.

**Spice:** As already submitted, existing operators must have the option to migrate to the new regime or stay under the existing regime. If any access service provider chooses to stay under the Unified Access Licensing regime, we believe that direct inter-circle connectivity for the operators must be limited to termination of own subscriber traffic in the network of the access providers' in adjacent / adjoining service area only.

**CUTS:** Yes

**CyberBazaar:** Yes

**COAI:** As already submitted, existing operators must have the option to migrate to the new regime or stay under the existing regime. If any Access Service Provider chooses to stay under the Unified Access Licensing regime, we believe that direct inter-circle connectivity

for the operators must be limited to termination of own subscriber traffic in the network of the Access Providers' in adjacent / adjoining service area only.

**BSNL:** As above

**Thuraya:** No comment

**Hughes:** No

**Bharti Welfare Foundation:** Yes.

**CUAI:** Yes, Direct interconnectivity is allowed without delay and without prejudice to one & all operators irrespective of their licensing pattern.

**Reliance:** As detailed above no access provider should be permitted inter-circle connectivity.

**ISPAI:** Yes

40. **Should Infrastructure sharing amongst different service areas be permitted?**

**RailTel:** Yes, infrastructure sharing amongst different service areas be permitted for efficient utilization of infrastructure.

**Estel:** Yes.

**ABTO:** Infrastructure sharing among the operators should be allowed within the common / overlapping service areas. Shared use of masts, antennas, cables, and combiners etc may be permitted.

Co-location charges should be determined / mandated by TRAI.

For the same operator who operates in distinct and or distant regions, sharing of switch/ MSC for different service areas along with billing should be permitted.

**BPL:** Yes, infrastructure sharing like common billing system, Network Management and Control Centre etc. should be permitted amongst different service areas to an operator providing multiple services in a number of service areas.

**TATA:** Yes, in order to have optimum utilization of national services, sharing of infrastructure, including switches / MSCs, between operators should be encouraged by the Government. The sharing of infrastructure should be permitted to only to those operators who come under the purview of Unified Licensing (i.e. Unified Licencees or Class Licencees). This will act as an incentive for other operators to opt for Unified Licensing regime.

**Spice:** To achieve objective of efficient utilization of scarce resources in a country like ours & in order to avoid duplications, infrastructure sharing must be both permitted as well as encouraged both between different operators in the same service area and same Operator in different service areas.

**CUTS:** Yes

**CyberBazaar:** YES, In fact if operators had decided to share than compete our country would have saved a lot of resources spent by operators creating excess capacity/infrastructure in the name of competition and non-co-operation.

**COAI:**

- a. As already submitted earlier, infrastructure sharing must be both permitted as well as encouraged both:-
- Between different operators in the same service area and
  - By the Same Operator in different service areas
- b. In fact, the Authority may like to consider making it mandatory for the incumbent PTT to share all passive infrastructures with the private operators. This infrastructure has been built up over decades through revenues from a monopolistic regime and thus through public funds. Further, mandated sharing will also help speed up the growth process.

**BSNL:** There is no logic of such sharing between two service providers operating in two different service areas.

**Thuraya:** No comment

**Hughes:** Yes

**Bharti Welfare Foundation:** Mandated carriage services by Unified Access License on appropriate contractual & tariff terms.

**CUAI:** Yes, Must be encouraged & may be mandated even.

**Reliance:** Infrastructure sharing (active as well as passive) among different services should be permitted to unified licensees only since this issue is connected to the inter-circle connectivity.

**ISPAI:** Yes. Not only infrastructure sharing be permitted but rather be facilitated and encouraged through appropriate regulatory intervention and supervision.

41. Under Unified Licensing Regime, licensee may offer the services through out the country. In that situation the concept of NLD operator as such may be no more relevant. Under such circumstances, how would the requirement of national long distance carriage for standalone operators be met?

**RailTel:** As proposed above, the access provider will need NLD license to carry inter circle traffic. However, there will be associated roll out obligations with NLD license. As such unless, access providers have license in all the circles, they may not like to take NLD license and will have to handover their traffic to independent NLD operators.

**Estel:** The requirement of long distance carriage for stand-alone operators can be met by IP-I and IP-II Licensees.

**ABTO:** ABTO recommends choice of service area and services under Unified Licensing Regime to be left to the service providers. The service provider may offer services through out the country. Under the situation, though the concept of NLD operator as such may be no more relevant under ULR, the concept of national long distance service will exist and the requirement of national long distance carriage for stand alone operators could be met by the operators providing national long distance service as well. In this regard, TRAI should order mandatory interconnection on non discriminatory terms.

**BPL:** Under ULR there will definitely be some NLD operators like BSNL, VSNL etc. who may provide carriage services across circles to standalone Access Providers. With the easy entry and no rollout obligations, it is also likely that some of the IP-I/IP-II players like



Airtel, GAIL, Power Grid Corp. etc. may set-up facilities for carriage of NLD traffic for different service providers.

**TATA:** It is necessary to keep relevant the concept of a stand-alone NLD operator. Such operators would be viable only if direct customer access mechanisms like IN Services, CAC and Pre-selection are implemented. This would ensure that "stand-alone NLD operators" would have the ability to offer their services directly to the end-customers.

**Spice:** Under the unified licensing regime standalone operators migrating to ULR will also become NLD operators as the UTL also includes the right to offer long distance services. As for such standalone operators who choose not to migrate to ULR, their national long distance carriage requirements can be met through any unified telecom licensee who will also be offering long distance services.

**CUTS:** As a regulator, TRAI should focus on competition, consumer welfare and growth of the industry.

**CyberBazaar:** There is a business case of independent NLD operator to cater to the needs of standalone operators even if interconnect is permitted across non-contiguous service areas. Standalone operators can use the services of independent NLD operators or integrated NLD operators.

**COAI:** Under the unified licensing regime standalone operators migrating to a unified licensing regime, will also become NLD operators as the unified license also includes the right to offer long distance services. As for such standalone operators who choose not to migrate to unified licensing, their national long distance carriage requirements can be met through any unified telecom licensee who will also be offering long distance services.

**BSNL:** Since there is an open licensing regime, possibility of stand alone NLD operators or access providers being in the field cannot be completely discounted. Therefore, there is a need for service specific regulation to continue. The stand-alone access providers can then have a commercial arrangement with any of the operators i.e. a unified operator or a stand-alone NLD operator.

**Thuraya:** No comment

**Hughes:** Since Unified License will be area based, some operators will opt for Circle and others for National level service area. Those with National coverage should play the role of NLD. As such there is no need for separate standalone NLD operator

**Bharti Welfare Foundation:** Yes, if the same leads to increase of local call area and a reduction in distance slabs.

**CUAI:** The UASL must by regulation offer NLDO services (wherever infrastructure support) is available with the licensee, the regulator & licensor have a key role in the implementation of such a free & fair NLD operations.

**Bharti:** Answers for 41 to 43:

At the outset, it may be mentioned that the NLDO shall continue to be relevant for the Access Providers who do not migrate to the Unified Regime as they would continue to be subject to their existing License conditions which do not permit them to carry Inter-Circle traffic. Accordingly, the requirements of such operators shall be met by such long distance operators.

The Unified License shall be an All India License. According to the model developed by us, the service area of a Unified Licensee shall be the whole of India. The Unified Licensee

shall be entitled to carry its Access as well as Long Distance traffic throughout the country. It may also carry the NLD traffic of other Operators.

However, operators who do not migrate to the new regime, shall continue to operate in their existing service areas and subject to the terms and conditions of their existing licenses which do not permit them to carry Inter-Circle traffic.

**Reliance:** In view of response to Q 38 and 39, service of NLD will be still required for the operators not migrating to unified license. For these operators any of the unified licensees can meet the requirement of NLD carriage.

**ISPAI:** The requirement of long distance carriage for stand-alone operators can be met by IP-I and IP-II Licensees.

42. **Whether there is a need to redefine national long distance traffic for the purposes of interconnection?**

**RailTel:** It is proposed that present inter connection at LDCA level may continue for NLDO.

**Estel:** Not applicable to ISPs.

**ABTO:** No. There is no need to redefine national long distance traffic for the purposes of interconnection under ULR.

**BPL:** All inter circle traffic should be defined as National Long Distance traffic. The present concept of categorizing inter SDCA/inter LDCA traffic within the same circle as NLD traffic should be done away with.

**TATA:** There is no need to redefine national long distance traffic for the purposes of interconnection.

**Spice:** The existing interconnection norms need to continue for NLD service.

**CyberBazaar:** YES. Inter-circle traffic to be covered in scope of NLD. Intra-Circle need to be excluded

**COAI:** Unable to comment at this stage.

**BSNL:** The mandatory requirement of switching and transmission equipment for setting up a PoP by the NLDO as originally defined in the terms and conditions of the Licence Agreement of the NLDOs should be strictly re-enforced for the purpose of interconnection with the Access Providers.

**Thuraya:** No comment

**Hughes:** No

**Bharti Welfare Foundation:** Service specific interconnection points offer solution; the Intercircle traffic can be transacted at TAX.

**CUAI:** Yes, But the same must lead to reduced number of distance slabs and also increased distance for local calls.

**Reliance:** Since the service area under circle level license should be same as present, there is no need to redefine NLD traffic for the purpose of interconnection. However

charging methodologies for NLD traffic should be clearly defined for IUC and ADC charges perspective.

**ISPAI:** Please see our response to Question 41 hereinabove.

43. Under the Unified License, a service provider may have whole country or some contiguous circles as his service area. Under this situation, it may not be necessary for him to route his inter-circle traffic through an NLD operator as he may carry the traffic on his own network in his service area which may be different for different service providers. In such a case, how should the traffic handover principles between different service providers (present in one/more circles or nationwide) be framed in the Unified License regime?

**RailTel:** Hand over traffic between different Access provider may be permitted at circle level.

**Estel:** Not applicable to ISPs.

**ABTO:** ABTO recommends choice of service area and services under Unified Licensing Regime to be left to the service providers. The service provider may offer services through out the country. Under the situation, though the concept of NLD operator as such may be no more relevant under ULR, the concept of national long distance service will exist and the requirement of national long distance carriage for stand alone operators could be met by the operators providing national long distance service as well. In this regard, TRAI should order mandatory interconnection on non discriminatory terms.

**BPL:** The service providers should be permitted to hand-over traffic at any designated point to the other service provider such as Gateway Switches, LDCA TAXs etc. The carriage charges should be based on the distance between the point of entry and point of exit in a network.

**TATA:** No change is required in the traffic handover principles between different service providers. If direct customer access mechanisms like IN Services, CAC and Pre-selection are implemented, the NLD and ILD service providers would have the ability to target the customers of other access providers. Therefore, the existing traffic handover principles between access providers and long distance operators should continue.

**Spice:** The unified licensee should have the option to hand over the long distance traffic at point of interconnection of his choice.

**CyberBazaar:** Least Cost Method. Market forces will determine the Least Cost Route. Even if an operator does not have contiguous circles he may be permitted to interconnect using leased infrastructure between two circles.

**COAI:** Traffic handover principles should be framed on the basis of agreements between operators. With technological advancements available today, operators should not be compelled to follow any legacy hierarchical structure that limits flexibility and increases costs. In fact the traffic handover principles should be based on the least cost routing and consequent maximization of benefits to the end-users.

**BSNL:** The routing of intra-circle, inter-circle and international traffic should be as prescribed by the Licensor for all types of traffic for all the services and it should be strictly enforced by the Regulator. The current routing plan may be followed even after migration to the unified licence regime.

**Thuraya:** No comment

**Hughes:** The principle of IUC should apply – call based charges between the point where the call is handed over to the point of destination charges should be shared with the other operator.

**Bharti Welfare Foundation:** LDCA & SDCA system can continue in a non-discriminatory manner.

**CUAI:** The existing traffic handover pattern of TAX/LDCA & SDCA can be evaluated subjected to the fact that there is: No prejudice depending upon the POI in an SDCA or not.

**Reliance:** For all operators that are not migrated to Unified license the present call handover regime should continue. Only unified licensee should be free to carry the call on its own network along with the present handover principles such as near end far end handover.

**ISPAL:** No comments.

44. **Whether any change is required in the location of POI and level of interconnection?**

**RailTel:** No change is proposed.

**Estel:** Not applicable to ISPs

**ABTO:** Interconnection should be at mutually agreed points. Level and location of POI would, therefore, be mutually agreed; but POI should be provided once sought by the interconnection seeker. Flexibility should be there for POIs at both SDCA and LDCA levels. The choice of network architecture should be left to the service providers.

However, it would be essential to have RIO from incumbent with co-location charges and other charges mandated by TRAI.

**BPL:** In our opinion, the POIs at the following levels should be permitted under the new regime:

- a. Fixed to Wireline Services - LDCA level (Level-II TAX)
- b. Mobile Services – at MSC level
- c. NLD/ILD Services – Level-I TAX

**TATA:** POI should be at the LDCA level or at a level higher than that depending on the mutual agreement between the service providers.

Level and location of POI would, therefore, be mutually agreed; but POI should be provided once sought by the other operator. Flexibility should be there for POIs at both SDCA and LDCA levels.

However, it would be essential to have RIO from incumbent with co-location charges mandated by TRAI.

**Spice:** The existing interconnection norms need to continue.

**CyberBazaar:** LDCA based POI seems more feasible. SDCA based interconnection at lower termination rates should be available to those operators who seek and whose counterpart has presence in such SDCA.

**COAI:** As per the WTO principles, which have also been enunciated by the Authority in its directive of April 25, 1997, Points of Interconnection should be available at every technically feasible point subject to network integrity.

**BSNL:** The interconnection regime is required to be reviewed to reduce the number of POIs so that it becomes cost effective, efficient and is easily manageable.

**Thuraya:** No comment

**Bharti Welfare Foundation:** Yes.

**CUAI:** No Change but for the fact that no prejudice is there for the end consumers based on their location whether the end user is based in the SDCA with POI or not. A consumer does not define whether his SDCA has POI or not. This issue of differential charging from consumers based on the presence of POI needs to be addressed on an emergent & priority basis.

**Bharti:** Please refer to our response in Q. 31.

**Reliance:** Please refer our response for Q. 31 and Q 32

**ISPAI:** PoI should be the nearest exchange as well as possible at the LDCA level.

## Reselling

### 45. Should reselling be permitted? If yes, how? What are the implications of permitting resale in the industry at this stage?

**Estel:** Resellers should be permitted under the Simple Registration Scheme which is currently in vogue for Other Service Providers – O.S.P's.

**SHYAM:** Answers for Questions 45 & 46

Reselling is a time tested model for spreading teledensity. Presently the spread of telephony has happened only in the major urban centers. For reaching out to the rural India, it is important that reselling of all services including Access and NLD and ILD are permitted.

**ABTO:** Answer for 45 and 46

- Government's priority should be building of infrastructure and thereby creating national wealth and it is not the right time to permit reselling now.
- In any case, if reselling is to be permitted it should be subject to:
  - License for resellers
  - License fee to be paid by resellers
  - Non-discriminatory
  - Allowed but not mandatory

**BPL:** Reselling should be permitted through franchisees for the present so that service providers are held accountable for the quality of service and charges etc. Reselling of services under a separate brand name by obtaining a separate service license may be considered after 3 years or when the teledensity of about 15 is achieved and adequate telecom infrastructure has been developed.

**TATA:** In the past, the emphasis of the telecom policies was to improve the level of infrastructure in the country and therefore, resale of services was not permitted. However, it is believed that there is sufficient infrastructure in most parts of the country now, with nearly 6-7 mobile networks and 4 long distance networks in operation. The stage is set for the introduction of resale of services, which will enable deeper and improved penetration in various markets, and thus increase teledensity.

Resellers should be permitted as a Class Licence category without any entry fee. Resellers may be allowed to offer mobile, fixed or long distance services of Unified Licencees only. The QoS norms for such services would be similar to those determined under the ULR; the responsibility for meeting the QoS would be with the reseller.

It should not be mandatory for Unified Licencees to offer their network / services for reselling. The commercial terms between the Network Operator and the Reseller should be decided on a mutual agreement, non-discriminatory basis.

Resellers would be liable to pay applicable revenue share on the net revenues collected by them (on a value-added basis).

**Spice:** The market forces should dictate the competition structure in all service categories. As highlighted by the Authority, the global experience of non-facility based competition such as resale, has played an important role in promoting & sustaining competition. Resellers tend to stimulate the usage of existing network through innovative means thus benefit both the facility based operators & the consumers. We are therefore of the view that reselling should be permitted for all services under the unified telecom license.

**CUTS:** Reselling should not be allowed as a trading activity. But an operator should be allowed to sell his excess capacity to another operators.

**CyberBazaar:** YES. It will help in growth of the industry and choice to consumers in terms of tariffs and facilities to both subscribers and non-subscribers. Franchising will not serve this purpose and is not a substitute for reselling. Franchisee agreements are one sided and force resellers to use one operators resources/interconnect resulting in franchisees being mere agents of the operators. Resellers can have agreements with multiple operators and provide right price and quality mix for their customers

**COAI:** If the Authority considers it desirable, reselling may be permitted.

**BSNL:** No, reselling should not be permitted at present.

**Palakkad District Consumers' Association, Kerala:** Answer for 45 to 46:  
Taking into consideration the interest of the consumers Reselling may be permitted under a unified license.

**MTROA:** Answers for 45 to 46:  
Reselling should be permitted by way of franchising or leasing of facility by an FBO/Class Licensee without double incidence of registration/entry or Licence fee.

**Thuraya:** No comment

**Hughes:** Reselling by building the nationwide VPN should be allowed under Class License. This will help efficient use of the bulk bandwidth and focusing on the niche segments

**Bharti Welfare Foundation:** Market forces play their role in sustaining competition.

**CUAI:** No comments.

**Bharti:** Answers for 45 to 46:  
The issue of reselling should be examined against the backdrop of the existing licensing framework and the current level of maturity of the Indian telecom industry. The existing licenses were *Facility Based Licenses* as they did not permit reselling. As a result, most operators invested huge sums to build their own infrastructure for providing telecom services. At the same time, they also invested resources in creating appropriate distribution channels for their services. Consequently, today most operators already have well-established distribution systems. Keeping in view the principles of Level Playing Field and 'No-Worse Off', it would not be advisable to permit reselling under the new regime.

It is also pertinent to mention herein that currently, telecom tariffs are abysmally low. Therefore, no sizeable business can be anticipated for resellers. Further, since the existing Licenses permit Access Providers to appoint agents/franchisees for providing services, this entitlement may be retained in the new regime for both Unified as well as Class Licensees.

**Reliance:** Answers for 45 to 46:  
The Indian telecom market with a tele-density of ~ 7 % is still not mature enough to sustain the introduction of resellers. Resellers across the world thrive on bulk purchases of minutes and resale at cheap rates, which would actually serve to fragment the market and impact the service provider negatively affecting infrastructure development in the country. Resellers can be brought in when the market has stabilized and reached a present teledensity of a developed country.



At this juncture, therefore, we feel reselling should not be permitted.

**ISPAI:** Resellers should be permitted under the Simple Registration Scheme which is currently in vogue for **Other Service Providers – O.S.P's**.

46. **What are the implications of having additional players in form of resellers for various telecom services such as NLD, ILD etc. purely on the basis of commercial agreements?**

**Rail Tel:** It is proposed that for the present, reselling in the form of franchise be permitted for all services under unified service license and ultimately a separate license can be given for resellers, so that they can work as Virtual Network Operator (VNO) facility less operator. This will facilitate better competition, lowering of prices and more value added services to the users.

**Estel:** Resellers will help in the consumer being able to buy the services efficiently and at competitive prices.

**BPL:** Large number of additional players in the form of resellers may lead to creation of unhealthy competition and give a go by to the quality of service. It will also make it extremely difficult for the subscribers to choose their service provider, as they may be carried away by misleading advertisements by such resellers.

**TATA:** It is believed that as a result of allowing resellers, the customers would have greater choice of service providers with the resultant benefits of improved customer service and better price packages.

**Spice:** We believe that resellers are purely a function of the market dynamics as resellers will only come into play if the market can support these operators.

**CyberBazaar:** No implication except for treatment of ADC which can be levied on the NLD/ILD call and passed on to concerned BSO.

**COAI:** We believe that resellers are purely a function of the market dynamics as resellers will only come into play if the market can support these operators.

**BSNL:** Reselling is normally useful where there is an excess capacity as a whole in the country. In India we are still living in the scarcity. Even the long distance infrastructure is not adequately available throughout the country. Reselling will further dampen the growth of infrastructure in the country.

**Thuraya:** No comment

**Hughes:** No implications. Unified License operators also will have the option to provide these services. They will opt for these services if they are competitive in the segment.

**Bharti Welfare Foundation:** No comments.

**CUAI:** Market forces play their own role. Competition should be **strengthened** in consumer interest.

**ISPAI:** Resellers will help in the consumer being able to buy the services efficiently and at competitive prices.



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**Other Issues**

47. **Under the Unified Licensing Regime what changes, if any, are required to be made in the existing Merger & Acquisition Policy?**

**Rail Tel:** No comments.

**ABTO:** The existing Merger & Acquisition policy allows merger of basic, cellular and unified access service licenses within a circle.

Under the new regime it is important to define a uniform spectrum cap for all the merged entities irrespective of the category of service area/ technology deployed by the merging entities.

Additional spectrum should be allotted to CDMA operators to bring it at par with GSM operators.

**BPL:** A service provider should be permitted to delink different services being provided under a common Unified License and should be permitted to sell/merge/acquire the individual telecom services. Though the Unified License may have "All India" jurisdiction, mergers may be allowed at a circle level.

**TATA:** We believe that Mergers & Acquisition are an essential market mechanism as a self-correction tool for long-term sustainability / health of the telecom industry.

In our view, upon merger of two or more entities in the same service area, the individual spectrum allocations should be aggregated in the merged entity. There should be no cap on spectrum of the merged entity.

**Spice:** M & A should be left to be the function of market forces.

**CUTS:** M&A policy should be to promote competition. It should be in conformity with the Competition Act 2002 and CCI should be consulted in finalizing the M&A policy.

**CyberBazaar:** This subject requires a separate consultation paper as the implications and ramifications of M&A are quite large.

**COAI:** Unable to comment at this stage.

**BSNL:** No comments.

**Thuraya:** No comment

**Hughes:** No comment

**Bharti Welfare Foundation:** Tariffs issues in UAL: the UAL must continue to offer standalone services especially those pertaining to access.

**CUAI:** Competition should be strengthened foreign investment & virtual players be promoted.

**Bharti:** As per the existing policy and the clarifications issued by the DoT, the Rule of Survival is made applicable in cases of Mergers & Acquisitions, with the following implications:

- The Licence Fee applicable to the merged entity shall be as per the rate applicable to the merged entity.
- The Duration of the License of the merged entity shall be equal to the remaining duration of the License of the Acquiring Company.

In this regard, we would like to make the following observations:

- a) As you are aware, the Government had announced additional benefit of 2% waiver in Licence Fee to 1<sup>st</sup> and 2<sup>nd</sup> Circle Operators. However as per the above rule, in case the 1<sup>st</sup> or 2<sup>nd</sup> Circle Operator is getting merged with the 4<sup>th</sup> Operator, then the benefit of additional 2% Licence Fee waiver is taken away. This will be against the spirit of the government decision. It is therefore requested that the additional 2% waiver benefit should be made available to the merged entity. It is suggested that the DoT may take the actual revenues of the concerned service provider as on date of the merger and apply a growth factor on the basis of the average industry revenues in order to arrive at the revenue quantum on which the 2% waiver may be applied for the applicable period of 4 years.
- b) With regards the Duration of License of the merged entity, it is suggested that the duration should be equivalent to the remaining duration of the license of the later entrant of the two parties.
- c) The DoT, vide letter dated April 15, 2004, decided to levy an additional charge of 1% of AGR, for additional spectrum of 2.5 MHz beyond 12.5 MHz assigned in Metros/Circles, whereby the total Spectrum Charges to be paid by operators for 15 MHz of spectrum would be 6% of AGR. It is suggested that the DoT defers the implementation of enhanced Spectrum Charges for merged entities, till it receives TRAI's Recommendations on the same, as the Regulator is also seized of the matter regarding Spectrum Charges and efficient utilisation.

**Reliance:** Answers for 47 to 48:

We will submit additional inputs on several issues mentioned in the consultation as well as other related matters soon – with more detailed analysis.

**ISPAI:** No comments.

**48.** In addition to the issues mentioned above, comments of stakeholders are invited on any other related matter that should be considered while finalizing Unified Licensing Regime.

**Rail Tel:** (a) At present, IP-II licensee can offer bandwidth only to telecom service providers. It is proposed that IP-II service provider should be able to offer bandwidth to Govt organizations, Banks, Corporates or any individual without any restriction.

(b) Under ISP license, licensee can offer VPN services using Internet cloud only. The license should permit VPN service for corporate and other organizations using state of art technologies available.

**VSAI:** No Comments.

**Estel:** In the context of ISPs, the most crucial issue to be considered is as under:

Currently, each one of the infrastructure providers to ISP (such as BSNL, MTNL, VSNL, Bharti, Tata & Reliance) are also providing ISP services and as such it is a typical case of

the supplier of infrastructure competing against its own customer – the ISP. In an environment like this, the Institution of ISP cannot survive.

The Task Force which recommended licensing to ISPs had very clearly set out the objective of ISPs being the vehicle of taking the internet services to the ultimate consumer. As against this, currently the ILD/NLD/BSOs treat the ISPs as their competitors and not as wholesale buyers of the infrastructure services from ILD/NLD/BSO based on which the ISP supplies value added ISP services to the retail customers as also Corporates and SMEs.

This leads to a situation where the infrastructure owners provide the same services to the ISPs at a higher price (even though the ISP is a wholesale buyer of these services) and provide the same services to the retail customer or Corporates at a lower price.

This is the fundamental issue which the Regulator and the Licensor has to decide if the institution of ISP is to survive and serve its objective for which the licences were granted.

There is, at this stage, undoubtedly, the need for Assymmetric Regulation in favour of ISPs who avail the infrastructure services of NLD/ILD/BSOs.

A radical solution could be to ensure that the infrastructure services providers (NLD/ILD/BSOs) are not licensed as ISPs and are forced to sell their ISP operations to totally unrelated parties.

There is already a precedent in case of ILD licence where BSNL was specifically denied the licence for a period of 3 years and also had to commit to pass all its outgoing traffic through privatized VSNL. Since ILD is an integral part of any telco's function, the Government placed only temporary restriction. As against this, ISP is very clearly a Value Added Service and as such our suggestion of forcing the existing telcos (NLD/ILD/BSOs) to sell off their ISP operations would not appear such a drastic suggestion.

#### **ABTO:**

- A class licensee should have the option to apply for a unified license in addition to providing class licensed service.
- With the advancement of technology, the location of the switch may be permitted outside the service area.
- Call by call ADC should be discontinued.
- Niche operator should be defined appropriately by government to avoid any kind of misuse by operators.
- Call handover/switching principles should be clearly defined for niche operators.
- Intermediate handover of calls should also be allowed.

**BPL:** Frequent changes in the licensing regime and terms and conditions for providing services, should be avoided. TRAI should make a comprehensive study of the anti-competition practices adopted by other Regulators and ensure that the markets are not exploited by a few integrated players with deep pockets to the disadvantage of standalone/small service providers.

#### **TATA:**

- Since UL is an all India licence, Service providers may be allowed to locate their switches in any location, and not be forced to have different switches in different circles. This would also enable them to take advantage of emerging softswitch technology architectures.

- It has been observed that the recent ADC policy has resulted in a substantial increase in grey traffic and under-declaration of long distance traffic. It is suggested that call ADC be replaced with an additional levy of say, additional 1% revenue share to all the Unified Licencees.
- The category of niche operator should be defined appropriately by TRAI to avoid any kind of misuse of by operators.

**Spice:** The issue of competition safeguards and special provisions for SMP operators under unified licensing must be addressed by the Authority to address the concerns of smaller / pure-play / new operators. Specific steps must be mandated viz. Accounting Separation, Interconnection Terms. The issue of harmonization of the FDI Limit under unified licensing also needs to be considered by the Authority.

**CUTS:** The policy should promote whistle blowers and watchdogs as a measure to address anti-competitive practices.

**CyberBazaar:** ADC has to reviewed as we have the financials of BSNL and other operators is available for the last year. ADC on ILD has to be reduced to Rs. 1.50 per minute (twice NLD ADC) to effectively curd grey market incoming ILD calls as soon as possible.

#### **COAI:**

#### **a. Special Provisions for Operators with Significant Market Power (SMP)**

- i. In its pre-consultations, the Authority had raised the issue whether under unified licensing there should be special provisions for SMP operators. We note that this issue has not been referred to in the final consultations.
- ii. We believe that the issue of ensuring fair competition becomes even more important / crucial in a unified licensing regime.
- iii. In our earlier submission we had emphasized that the introduction of a unified licensing regime must be accompanied by a rigorous enforcement of a strong and robust telecom specific competition framework that will be equipped to take into account the diversities that will exist amongst the unified licensees in terms of area of operation, types of operation and level of integration, market power, transparency in operations, access to key resources required for operations etc. We had submitted that such a competition framework must facilitate the creation of a telecom market that does not disadvantage an otherwise efficient telecom operator on the basis of its scale/area/nature of operation.
- iv. We had emphasized that unifying licenses does not unify markets or relieve the Authority from regulating separate service segments and imposing specific conditions on operators to control anti competitive practices especially by vertically integrated players / players having Significant Market Power (SMP). In fact, unifying licenses increases the burden of regulatory oversight as the possibilities for vertical price squeezing, predatory pricing and cross subsidization increase with the number of market segments in which an operator may participate.
- v. We had thus pointed out that understand these circumstances, it is crucial for the Authorities to prescribe and enforce specific conditions on operators with significant market power in order to ensure that SMP operators do not abuse that power to the detriment, or survival of an otherwise efficient and competitive pure-play operator. This risk will need to be controlled through accounting separation, competitive safeguards like price controls, interconnection, equitable, cost based and non-discriminatory access

and carriage charges, transparent, non-discriminatory and cost-based transfer pricing arrangements, etc.

vi. We had noted that accounting separation and price regulation are the principal regulatory tools that have been used to control the abuse of SMP, prevent cross-subsidy and encourage competitive behaviour.

vii. We note that the Authority has recently notified the Reporting System on Accounting Separation Regulation, 2004 (4 of 2004) which will facilitate the availability of more detailed and disaggregated information on revenues and costs on regular basis with a view to :

- Measuring financial performance of products;
- Monitoring return on products and services regulated with price ceilings;
- Identifying cross subsidizing, Investigating predatory pricing, discrimination and other anti-competitive conduct;
- Understanding the inter-operator arrangements in terms of price and cost, and
- Monitoring adequacy of access deficit etc.

viii. We welcome this development and we believe that an expeditious implementation and enforcement of the above regulation, especially for SMP / Vertically integrated operators will go a long way towards addressing the concerns of smaller / pure-play / new operators in the unified licensing regime.

**b. Foreign Direct Investment Limit**

i. The issue of FDI limit under the unified licensing regime too was raised in the pre-consultations but has not been mentioned in the final consultation paper.

ii. In this context too, we would like to reiterate our submission that under unified licensing, the FDI limit should be unified / made uniform / same for all telecom services/ infrastructure. We had recommended that it should be fixed at 74%. We had also suggested that special care be taken in case of ISPs (without gateways) and Category I Infrastructure Providers, who presently have an FDI limit of 100% in order to address the equities that may have been created as a result of the higher FDI limit.

iii. We had also pointed out that in the case of wireless services, this hike in the FDI limit was both necessary as well as desirable. This was on account of the fact that it has been estimated that the wireless sector would achieve 100 million subscribers over the next 18 months requiring investments of around Rs. 50,000 crores. We believe that this growth would need to be primarily funded by foreign Investors and would thus warrant raising the FDI limits.

**BSNL:** There should not be frequent changes in the Licensing Regime. There may be a one time comprehensive review of all the issues and the changes, if required, should be implemented in such a way that these are non-discriminatory and do not disturb the level playing field.

One of the main objectives of Unified Licensing Regime has been stated to encourage, efficient, small operators to cover niche area particularly in rural, semi-urban and remote areas. The statement goes against the general experience that in telecommunication business, the small operators do not survive in the long run. Further, with small operators the issues relating to Numbering, Spectrum, right of way and interconnection etc. get multiplied. BSNL, therefore, is not in favour of such small operators. In addition, this results in Cherry Picking, which adversely affects the viability of operators like BSNL who have the responsibility to provide services throughout the country including rural and remote areas in a non-discriminatory manner.

**Palakkad District Consumers' Association, Kerala:** Wireless services should be provided only through a franchise from a unified licensee because of issues related to enforcement and optimal utilization of spectrum.

**Thuraya:** No comment

**Hughes:** No comment

**Orissa Consumer's Association:**

- (a) (I) Existing service providers are to migrate to new unified regime within a period to be fixed by TRAI.
- (II) There should not be two sets, which will create confusion and dichotomy.
- (III) If no migration it is found the existing licensee has some disadvantage then it may be looked into.
- (b) Transparent accounting separation and price regulation by Regulator be used to control the S.P.M. will encourage competitive behavior in providing quality of service at cheaper rate.
- (c) Failure to meet the condition of license/ instruction/ direction/ guideline a penal provision be made.
- (d) For the present F.D.I. limit for all service U.L.R is not possible. It should be 75% for facility-based operation and 100% for non-facility based operators.

India has to evolve its own model taking into consideration of the ground realities and other aspects, learning and studying pros and cons and success and failure of other models and that too character of & behavior of our people and employees of the operators and negative / harassing work culture & system.

Obligations as enumerated in Australian model and EU framework are to be part of conditions of license and in Rules & Regulations to be framed by TRAI and Central Govt.

Reselling and transfer is to be freely permitted but it is to be seen whether it is leading towards monopoly and forming catatclysm in business and service.

Normal Registration charge may be taken without any separate license and only additional conditions in license can be incorporated considering the abuse of such transfer and protecting the rights and remedies of subscribers.

There is no need of such new service providers as the same should be the part of the condition of license of any service providers. Penal clause should be provided in the licensing conditions, failures of which to render such service within a time frame entail them to liable to pay penalty / compensation to the subscribers/ consumers/ effected persons. Which need to be recovered from the salary of the licensees for whose inaction, negligent and malafide action such compensation/ penalty is awarded to ensure accountability & efficiency.

Growth of Telecom Sector Stand-alone operators competitive interest through transparent accounting separation, price control/ force based on equitable cost, transparent, non-discriminating and commercial pricing arrangements, compulsory interconnection, roaming arrangement with other service providers is necessary.

It operators wants to move from their present license to a new one then it goes to uncovered area of operation and that too remote and inaccessible area by building / providing infrastructure to be given special incentive. TRAI is to remove all barriers and make entry into new service more open.



**CUAL:**

- (1) The UAL must offer standalone services as well.
- (2) Access to other operator's standalone services from UAL must be ensured.
- (3) Exit: Surrender of licenses: issues relating to the exit of UAL from the sector as such or collapse of any of the services on a UAL's network must be looked into; eg. Operator X is present on a PAN India basis but their ILD services become defunct;

**Bharti:** For a holistic approach to Unified Licensing, it is necessary that the Spectrum Policy is soon finalised and thrown open to public consultation. Whilst we shall be submitting our detailed response to the consultation paper when it is released by the Authority, it may be mentioned in the passing that Spectrum Charges should be kept at a minimum, covering the cost of administration and regulation. This shall ensure affordability of service. It is also suggested that the Spectrum Charges should continue to be on a revenue share basis as is the current practice. Further, adequate spectrum based on International Benchmarking should be made available in one go to ensure better network planning, capex control and quality of service.

**ISPAI:** In the context of ISPs, the most crucial issue to be considered is as under:

Currently, each one of the infrastructure providers to ISP (such as BSNL, MTNL, VSNL, Bharti, Tata & Reliance) are also providing ISP services and as such it is a typical case of the supplier of infrastructure competing against its own customer – the ISP. In an environment like this, the Institution of ISP cannot survive.

The Task Force which recommended licensing to ISPs had very clearly set out the objective of ISPs being the vehicle of taking the internet services to the ultimate consumer. As against this, currently the ILD/NLD/BSOs treat the ISPs as their competitors and not as wholesale buyers of the infrastructure services from ILD/NLD/BSO based on which the ISP supplies value added ISP services to the retail customers as also Corporates and SMEs.

This leads to a situation where the infrastructure owners provide the same services to the ISPs at a higher price (even though the ISP is a wholesale buyer of these services) and provide the same services to the retail customer or Corporates at a lower price.

This is the fundamental issue which the Regulator and the Licensor has to decide if the institution of ISP is to survive and serve its objective for which the licences were granted.

There is, at this stage, undoubtedly, the need for Assymetric Regulation in favour of ISPs who avail the infrastructure services of NLD/ILD/BSOs.

A radical solution could be to ensure that the infrastructure services providers (NLD/ILD/BSOs) are not licensed as ISPs and are forced to sell their ISP operations to totally unrelated parties.

There is already a precedent in case of ILD licence where BSNL was specifically denied the licence for a period of 3 years and also had to commit to pass all its outgoing traffic through privatized VSNL. Since ILD is an integral part of any telco's function, the Government placed only temporary restriction. As against this, ISP is very clearly a Value Added Service and as such our suggestion of forcing the existing telcos (NLD/ILD/BSOs) to sell off their ISP operations would not appear such a drastic suggestion.

The summary of response as submitted by few stakeholders are enclosed at Annexure-I

In its response M/s Hughes Escorts Communications Ltd has also submitted an excel sheet. This is enclosed at Annexure- II.

## **USF: GENERAL COMMENTS ON ALLOWING NICHE SERVICE PROVIDERS IN SMALLER SERVICE AREAS**

The need for allowing operators in smaller service areas has been examined in the context of providing Universal Service. It is an established fact that the tele density in rural areas is considerably less than the urban areas, particularly in metros. Imposing roll out obligation in rural areas on Basic Service Providers has not met with success. The Unified Access Licensing Regime has dispensed with such roll out obligation. While support from the Universal Service Obligation Fund is based on the net cost of providing Universal Service in rural and remote areas through a competitive process, it would be worthwhile to consider a regime, which would further accelerate the process of rural coverage and encourage competition in a real multi operator environment in these areas.

2. It is quite possible for niche rural service providers to be more cost effective than circle based service providers while operating in remote and rural areas, where the cost of providing connectivity is high and revenues are low. Such niche service providers could effectively minimize the cost of operations by reducing overhead costs and finding innovative solutions to provide rural telephony. It would also enhance competition for providing services in such rural and remote areas where response from most circle based operators is rather lukewarm.
3. For the purpose of improving the viability of niche service providers, if LDCA is considered as the Service Area, it could be stipulated that such operators would have to provide coverage to all SDCAs in the service area with a specific roll out obligation for the rural and remote SDCAs. In the alternative, service area could be confined to the rural and remote SDCAs in a LDCA where such SDCAs are identified in terms of specific criteria like under served areas in terms of tele density or rural and backward areas, in terms of Census norms or norms established for planning purposes, or those areas where costs exceed revenue. If this alternative approach is adopted, the Service Area would be restricted to only those SDCAs, which are designated as rural, and remote areas.
4. All such rural service providers should be enabled to provide both Voice and Data service either wire line or wireless and could be given some special dispensation in respect of registration fee, license fee and spectrum allocation. Interconnection should be mandated on most favored terms.

### **BPL:**

1. At the outset, we would like to compliment TRAI for coming up with a very comprehensive document and providing opportunity to the various stakeholders to express their views on the important aspects of licensing of Telecom Services in India.
2. We are giving below our response on the various issues in the Consultation Paper. Replies to the specific questions raised in Chapter-6 are given after our general observations on the important issues.
3. The salient issues on which TRAI has asked the stakeholders to give their views are:
  - Services to be included in the Unified License
  - Services to be included in Class License
  - Service Area
  - License Fee
  - Registration/authorization charges



- How to ensure level playing field viz a viz the existing operators who have been issued service specific licenses on payment of high entry fee/license fee
- Rollout obligations
- Interconnect issues
- Other misc. issues like Numbering, Reselling of Services, M&A etc.

a) Services to be included in the Unified License:

We agree with TRAI's suggestion that all Telecom Services be categorized under two different licenses i.e. Unified License and Class License. In our opinion, the services to be included under each license should be as follows:

b) Unified License

- Access Services of all types i.e. Fixed Line and Cellular Mobile
- NLD Services
- ILD Services including GMPCS
- Broadband Services (both fixed and mobile)
- Related Value Added Services like Voice Mail
- All Services included in Class License

c) Services to be included under Class License

- Radio Paging
- PMRTS
- Internet Services (excluding voice on Internet)
- Unified Messaging Services
- IP-I, IP-II
- Any other non-facility based application services
- V-SAT Services (CUG Service as per present License)

d) Service Area

Under the present regime the Access Services are being licensed on 'Circle' basis, whereas Long Distance Services like NLD, ILD are being licensed on 'All India' basis. If these are to be included under the category of Unified License, the service area for the unified license should be on 'All India' basis. An all India license should be available on payment of prescribed registration/authorization charges. However, for spectrum based Mobile Access Services, separate spectrum allocation for each Circle could be made on payment of the prescribed entry fee for the spectrum. A "Class License" may be issued either on 'Circle' basis or on 'All India' basis.

e) Registration/Authorisation Charges

The registration charges should primarily cover the admin. cost of processing the application. We recommend that the registration charges should be:

Unified License -	Nominal charges subject to max. of Rs. one Crore
Class License -	Nominal charges subject to max. of Rs. 10 Lakhs

Notes:

- This does not include entry fee for spectrum which may be benchmarked around entry fee paid by the 4<sup>th</sup> CMSPs/UASL Operators for each circle service area.
- Appropriate entry fee for spectrum required by services like radio paging, PMRTS etc. may be laid down, keeping in view their revenue earning potential.
- The authorization charges would include number allocation, as required based on the network rollout and customer base of an operator.

#### f) Spectrum Charges for Cellular Services

Recently TRAI has recommended entry fee for Unified Access Licenses to be the same as the entry fee paid by the 4<sup>th</sup> CMSPs in each Circle. The cellular operators have also been permitted to provide fixed services without paying any additional entry fee. With nominal registration charges for non-spectrum based services, the entry fee for Cellular/Unified Access Licenses will be virtually entry fee for the spectrum. We, therefore, recommend that the entry fee for the spectrum for each circle under Unified Licensing Regime (ULR) be benchmarked with reference to the entry fee paid by the 4<sup>th</sup> CMSPs/UASL operators for each service area.

The above entry fee for the spectrum should enable an operator to have spectrum upto 15 MHz. for GSM and other TDMA based systems; 5 MHz. For CDMA based systems; appropriate spectrum for any new technology which may be developed in future, so as to support the same number of customers/traffic in Erlangs that can be supported by 15 Mhz. GSM based systems.

#### g) Rollout Obligations

In our opinion, no rollout obligations either in terms of geographical coverage or in terms of services to be provided should be laid down under Unified License or Class License. Let the market forces determine the rollout by the operators. The objective of universal service could be achieved by providing adequate incentives under USO. BSNL, the incumbent having all India presence should be made the default universal service provider and should be appropriately funded from the USO fund for this obligation.

#### h) Level Playing Field Issues

In order to ensure that the existing service specific licensees, who have paid huge entry fee, are not worse off viz a viz the new entrants who may obtain Unified Licenses under the new regime on payment of nominal entry fee of about Rs. one Crore, in our opinion, TRAI may recommend to the Govt. to refund the pro-rata entry fee for the remaining period of the license from the date the ULR is introduced. The excess entry fee could be adjusted either towards the entry fee for the spectrum for any new service areas in which a CMSP/UASL operator may want to provide mobile services or towards the future license fee/WPC charges. There need not be any cash refund as the Govt. is averse to any such proposal. This would apply to the 1<sup>st</sup> and 2<sup>nd</sup> set of cellular operators, the 1<sup>st</sup> set of basic operators in 6 circles, 2 private NLDOs (Bharti and Reliance Infocom) and 3 private ILDOs who have paid the entry fee (Bharti, Reliance Infocom and Data Access). BSNL/VSNL have not paid any entry fee for NLD & ILD Licenses.

#### Alternatively-

- i. The entry fee paid by the 1<sup>st</sup> and 2<sup>nd</sup> set of CMSPs and the 1<sup>st</sup> set of 6 Basic Operators could be reduced by an amount equivalent to the revenue share license fee they would have paid from their effective dates upto 1/8/1999 (the date of migration to revenue sharing regime from fixed license fee regime) assuming that new regime had been implemented retrospectively from the original effective date. The net entry fee would then be benchmarked against the entry fee paid by the 4<sup>th</sup> CMSPs/UASL operators and excess amount to be refunded/adjusted against future dues or entry fee for the spectrum for additional areas under Unified Licensing Regime.
- ii. In case of existing NLDOs/ILDOs, pro-rata entry fee to be charged for the license period upto the date of implementation of the Unified Licensing Regime and the balance amount to be refunded/adjusted.

Any of the above two proposals, in our opinion, would be equitable and address the LPF concerns of existing licensees.

#### Level of license fee

- a) Unified License
  - USO+1% of AGR to be paid in four quarterly installments. This flat license fee will be payable for all services under the unified license.
- b) Class License
  - \* USO + 1% of AGR

#### Notes:

- i. \*Either no USO or 50% of the USO charged from Unified Licensees be charged for Class License.
- ii. USO to be reviewed every two years in consultation with TRAI.

#### Interconnection Issues

- ii. Direct interconnection between various service providers for each service i.e. Fixed Line, Cellular Mobile, NLD, ILD etc. should be mandated.
- iii. Direct inter circle connectivity to be permitted between operators in adjacent circles for terminating their own traffic. This should be permitted even to the existing licensees who do not migrate to the ULR.

#### Other Issues:

- ❖ The concept of niche operators at SDCA level is not practicable and workable. When big players with deep pockets are restricting themselves to the creamy areas and not meeting their obligations for providing VPTs etc., how could a small operator with meager resources could provide Fixed Line Services in rural and remote areas and be viable?
- ❖ Internet telephony, being a voice service, should require an operator to possess Unified License. It need not be restricted to communications between two PCs or a PC at the originating end and PC/Phone at the far end. Internet Telephony could be permitted from phone to phone under unified License subject to prescribed QoS standards being met.
- ❖ Under the Unified License with no rollout obligations and nominal registration charges, it may be meaningless to have circle based unified license. There should be only one type of Unified License i.e. 'All India'. However, spectrum required for cellular mobile services should be allocated on payment of specified entry fee on circle basis.
- ❖ Existing numbering plan for each service to be continued even under Unified Licensing Regime. The registration charges to include charges for number allocation.
- ❖ Infrastructure sharing should be permitted, both in respect of active and passive infrastructure, between the same operator in different circles or any other operator in the same circle.
- ❖ Reselling of Services should be presently restricted to franchisees of Unified Licensees. Separate licensing of resellers would lead to proliferation of licensees and would make the choice of a service provider far more difficult for the consumers and may also lead to lowering of Quality of Service (QoS). Matter may be reviewed after 3 years.

Based on the above comments, we are giving below our response to the various questions

raised in Chapter-6 in the chronological order. For the sake of brevity, we are not repeating the questions while giving our response:

The TRAI/Govt. must ensure that the existing service providers are not worse off under the new licensing regime and all the existing service providers are brought at par with the new licensees who may acquire Unified License at a very nominal cost.

**SPICE: Summary of our Response:**

- Access Providers at Circle level must have the right to provide NLD/ILD services since it would mean more competition & wider choice in this segment, which at present is inadequate. Also it would enable access providers, especially the stand-alone ones, to ensure end-to-end service and the desired quality to its subscribers. So far as service area of operation is concerned, we reiterate that the choice of service area should be left to the service providers & accordingly the Unified License should be issued at 'Circle' level besides 'All India' level. It is only by maintaining emphasis at the Circle level that we will be able to ensure detailed penetration within the Circle and improve coverage rather than issue only All India licenses. Therefore, a circle based 'Unified Licensee' would get the following rights:
  - Access
    - Right to offer all types of access services within his service area
  - National Long Distance
    - Right to carry long distance traffic of any subscriber within his licensed service area (including subscribers of other operators)
    - Right to carry national long distance traffic outside his service area for his own subscribers as well as for subscribers of other operators in his area.
  - International Long Distance
    - Right to set up an International gateway in his licensed service area for catering to ILD calls to & from his licensed service area
- Market Forces should decide the competition in all categories and Regulation should not be restrictive towards the same. We therefore feel, in order to encourage competition, which in the ultimate analysis will lead to key objective of free growth in Tele-density & applications & services, we should ensure the following:
  - Access : Although there are multi-operators in this segment but in order to fuel further growth of information economy & to stimulate usage of existing networks through innovations & to encourage in-depth penetrations at the market place, the Regulation should not restrict Re-sellers from operating. It would provide an effective entry vehicle for new entrants who lack the required capital to build own networks but can enhance efficient usage of networks.
  - NLD : Keeping in mind the technological developments, for efficient utilization of expansive telecom infrastructures, IP-II licensees should be permitted to carry voice as Technology now allows Voice and Data to move on same infrastructure.
- More Competition in long distance sector: We believe that the number of players/new entrants will be decided by Business viability considerations of the proposed entrants rather than any restrictive regulatory policy. e.g. today in NLD Sector by having difficult and tight Regulatory conditions neither Customers have a choice nor Access providers have the choice to route their NLD/ILD traffic on competitive rates, since all the current NLD/ILD operators are also integrated players and very few stand alone NLDOs have come up.

- o We should therefore allow more NLD/ILD players to come up and in that context IP-II players would be a strong bet. PSUs like Railtel, PGCIL, GAIL etc. who own extensive infrastructures, would be more competitive to provide desired benefits & choice to the service providers & customers.
- Stand-alone players: There should be clear-cut competition safeguards for stand-alone players vis-à-vis integrated players, which could be backed up by more specific recommendations viz. Accounting Separation, mandatory & non-discriminatory Interconnection regime etc.
- Sharing of Infrastructure Our country can ill-afford duplication of infrastructure & so sharing need to be encouraged. The policy frame work should ensure co-operation, and incentivise sharing of both active and passive infrastructure and particularly regulate the incumbent BSNL's infrastructure so as to allow for sharing all active infrastructure, which will help in speeding up the growth process.
- Universal Access: In order to encourage Rural Roll-Out, we should adopt a policy of incentivisation for operators out of USO/ADC funds. This can best be achieved by allowing Niche operators to develop their own business case, an existing example of this model can be the role being played by the existing DID players in wire-line access segment.

#### N Logue: PROPOSAL FOR RURAL SERVICE PROVIDER

##### Background

There have been many attempts made to ensure that rural areas are covered. This has been a mixture of caveats and carrots, both of which have not had the best desired results. What is clear is that operators will go where business drives them. This strategy has worked in areas as diverse as shampoo sachets and small packs in paints.

##### The Rural Market

The prime reason that companies have not focused in rural areas is that their existing business models are not suitable for profitably addressing these markets. The challenge in this case is – Disruptive – to commercialize the service offering of telephony in a more simple way such that it can be sold in a currently commercially unattractive market –viz rural areas.

Essentially what is clear is a “Disruptive Innovation Model” would be needed to successfully address this market. It is in this new hitherto untapped market that the New Disruptive Business Model would be competing with non-consumption.

With over 70% of India's population in rural areas the benefits for the country would be huge for every point in increase of rural tele-density.

##### The Business Model

What works in such a unique situation is a combination of

4. Technology
5. Business Model
6. Organization that has focus in rural areas.

The technology must be cost effective such that small numbers are viable and then modularly scalable as numbers increase.

The business model must focus on demand aggregation as well as offering a bouquet of services as that ensures sustainability.

Very simply an organization that is focused on urban and rural areas will easily gravitate its resources (in money, time and star employees) to the lucrative urban markets. Hence focus to address the rural market is critical as then the organization will consistently find new ways for

solutions as its existence depends on these.

n-Logue Communications has worked through all these and is today a singularly focused rural service provider offering Internet based services only in rural areas. As we use CorDECT (the most cost effective rural deployment available) we can also provide telephony subject to license permitting.

#### Terms for a Rural Service provider

This is a niche that needs to be treated as one, as players who will focus in these areas will be the small operators who cannot afford the large moneys needed for urban operations.

#### 5. Scope of operation: There Options

The RSP sets up operation in any city with population less than 2.0 lacs and can operate from there.	Helps in connectivity (data and voice ) for an RSP . Unified license operators may have an issue as the set up towns would be competing areas	Is OK for an RSP , but may have some issues with Unified license operators Not Recommended
The RSP operates only in Rural SDCAs	There are too few Rural SDCAs in the country and there are many villages even in urban SDCAs	Not workable for an RSP at all as there will be no access allowed for a large number of villages Not Recommended
The RSP can set up operation anywhere – but at any time must have at least 80% of its customers in villages of population less than 20,000	This will help an RSP to set up infrastructure for connectivity purposes in District and Taluk HQs. It will also not encroach on the big business that the large operators would feel threatened by. All these figures can be audited and measured easily.	Seems to be the most likely and best option Recommended.

2. Spectrum : This is also a key issues. It is recommended that for an RSP spectrum is given on a preference and priority. A period of 10 years should be given for no spectrum fees. This could be either a direct subsidy or an indirect subsidy through the USO Fund. It has been found that CorDECT has a prime use in rural areas and hence some of this spectrum can be blocked specifically for RSPs .

3. License Fees/ Entry Fees: Setting up huge and difficult entry fees will once again defeat the purpose. However the government must still be able to differentiate and help the serious RSPs. What is recommended is the merging of the ISP and the RSP license for any specific geography. A state level ISP would then be able to offer RSP for the state and so on.

4. Interconnect : Interconnect should be mandatory for the incumbent(BSNL) at the local SDCA for all calls(including STD & ISD). In case an RSP is operating in neighbouring SDCAs, then handover at either SDCA must suffice. IUC calculations as per TRAI would be applicable. Local Connectivity including port charges could be considered for a subsidy from the USO Fund.

#### COAI: EXECUTIVE SUMMARY

At the outset we would like to welcome the Authority's initiative in moving towards a holistic unified licensing regime. Our submissions with regard to the framework and the terms and conditions of



licensing are as below:

2. COAI is broadly in favour of the framework proposed by the Authority in Model I, Category IV – i.e. Unified License & Class License, for moving to a holistic licensing regime.
3. In consonance with the concept of unification, is our understanding that a Unified License also includes a Class License i.e. a Unified Licensee can automatically offer all services and facilities that are listed under a Class License. A Class Licensee will however have to take a Unified License in case he wants to offer any services listed under the Unified License.
4. Within this framework / model, we believe that all types of telecom services including Basic Services, Cellular Services, Unified Access Services, National Long Distance, International Long Distance, VSAT Services, GMPCS Services (only service aspects) and related value added services should be permitted under a Unified License. Further, broadband services (both fixed and mobile) should specifically form a part of the Unified license.
5. A Class License may cover Radio Paging, PMRTS, ISP, IP-I, IP-II and any other non-facility based application service
6. Internet Telephony may be permitted as long as it is on the same terms and conditions as other operators so as to ensure level playing field.
7. If Internet Telephony is to be allowed, it may be both desirable as well as necessary to move ISPs from the Class License category to the Unified License category, so as to prevent issues of enforcement that could arise if any ISPs offer Internet telephony without acquiring a unified license.
8. As a general rule, all voice telephony services, with perhaps the exception of services by Niche Operators in Rural SDCAs, should only be permitted under a Unified License.
9. Unified Licensing should be implemented through a system of automatic Licensing / Authorization subject to notification to Regulatory Authority and compliance with published guidelines
10. Existing licensees must have the option to remain under the existing regime or migrate to the new regime. However, the principles of level playing field and No worse-off must be adopted for existing licensees.
11. Holistic licensing as per the present consultations is already Phase 2 of the 2-Step approach adopted by the Authority. It should not be broken into any further phases as it will lead to :
  - Confusion and ambiguity in the minds of all stakeholders including licensees and investors
  - Contentious and complex issues of migration at every stage
12. A suitable mechanism may be proposed by the Authority for the surrender of in-fructuous licenses as a result of unified licensing as also for the adjustment of the excess entry fee if any paid by such licensees.
13. In this context, we would also like to draw the attention of the Authority to the approach taken by the United Kingdom upon the introduction of the Communications Act 2003, which abolished licensing and introduced a simple authorization regime. Clause 147 of the Communications Act provides for repeal of certain provisions of the Telecommunications Act 1984. The Explanatory Notes prepared by the Department of Trade & Industry clarify that as a result of the abolition of telecommunications licensing it is necessary to make certain savings and transitional provisions which are contained in Schedule 18 of the Act. Para 12 of Schedule 18 – (Transitional Provisions) on Charges under Telecommunications Act licences reads as below :

12. (1) Where any amount is required by a licence under section 7 of the 1984 Act to be paid to the Director in respect of a period beginning before the abolition of licensing, that liability is to have effect after the abolition of licensing as a liability to pay to OFCOM so much of that amount as does not relate to times after the abolition of licensing.
- (2) For the purpose of determining how much of an amount payable to the Director relates to times after the abolition of licensing, an apportionment is to be made according to how much of that period had expired before the abolition of licensing.
14. The above clause clearly provides that the liability of the licensee is to pay the Director only that amount that relates to the period prior to abolition of licensing and that this amount would be determined on the basis of the period that has elapsed.
15. Fitting the above provision to the Indian environment, it would imply that if a licensee has paid say Rs. 100 crores for a 20-year license and that license becomes in-fructuous after say 10 years, then the pro-rata entry fee for the period of 10 years should be refunded / adjusted against the future dues of the licensee.
16. In line with the above, we would therefore like to suggest that the entry fee paid by the service provider could be refunded / adjusted on a pro-rata basis for the un-expired duration of the license. It is also proposed that a similar approach could be adopted for adjustment of excess entry fees paid by service providers under the existing licensing regime.
17. Registration charges must be a single one-time charge and should cover only the cost of processing and issuing the Unified / Class License. The Registration Charges should also include the charges for number allocation.
18. Registration charges should be a nominal fee to cover the provision of all non-spectrum based services.
19. The Authority has indicated that charges for spectrum will be determined separately and that the Authority would soon be initiating a consultation process to deal with all spectrum related issues.
20. However, it must be noted that the entry fees paid by the existing wireless operators is essentially the entry fee for spectrum. The Authority too has recognized this in its Preliminary Consultation Paper on Unified Licensing issued on November 15, 2003 wherein the Authority has recorded that " For the existing service providers who use spectrum for providing telecom services, entry fee paid includes spectrum charges...."
21. The DoT Committee on the Efficient Use of Spectrum by Cellular Services too, has recognized the importance of this resource for wireless operators and has accordingly recommended a roadmap for allocation of upto 2X15 MHz per operator based on achievement of certain pre-defined milestones. It is submitted that existing operators must be entitled to additional spectrum upto this cap without payment of any additional charges.
22. Registration charges should not be linked to the entry fees paid under the present regime; they should be independently determined on the basis of above principles.
23. The introduction of Niche Operators may be considered, but only for Rural SDCAs as defined under the Census. Niche Operators may provide Fixed & Internet telephony services under a separate Class license. However wireless services should only be provided only through a franchise from a unified licensees because of issues related to enforcement and optimal utilization of spectrum. By virtue of operating exclusively in Rural SDCAs, Niche Operators should be entitled to reimbursements from the USO Fund



24. Once the Government moves to a market led policy & licensing regime and facilitates the introduction of competition at lower costs, the objective of coverage and reach will be automatically achieved as players will continue to venture into newer areas to seek business. In such a case, it may be unnecessary to actually stipulate a specific rollout obligation in the licenses.
25. Past performance too, has clearly demonstrated that the stipulation of rollout obligations and the imposition of stiff penalties for non-performance, does not necessarily lead to achievement of rollout in rural & remote areas.
26. It is therefore proposed that rollout should not be stipulated in the license, but rather left to market forces. Thus there should be no rollout obligations imposed on the Unified Licensees. Accordingly there would be no requirement for a Performance Bank Guarantees under the Unified License.
27. If however, despite the state of hyper competition, operators do not rollout into certain areas, then it would be due to insuperable factors, which would have to be separately examined and addressed by the Authority.
28. In such cases, it may be practical as well as desirable for coverage of such difficult areas to be achieved through BSNL as it would be far easier as well as more cost-effective for BSNL to use its existing nationwide telecom infrastructure to reach rural / remote areas. For this purpose, BSNL would have access to the USO Fund and also be extended some special privileges for undertaking this social responsibility.
29. The concept of Financial Bank Guarantees (FBGs) too should be reviewed and done away with as they only add to the costs of the end consumers. It is verily believed that the imposition of FBGs is not a prevalent practice in other telecom regimes.
30. The Authority must adopt a two-tier structure for service area classification - i.e. circle / All India. However, based on the principle that the registration charges should only cover the cost of processing & issuing the license, the charges for an all India license should only be marginally higher so as not to discourage operators for going in for a larger footprint.
31. Unified Licenses should definitely not be issued at the SDCA level as this would lead to problems of interconnection, regulation, spectrum allocation, monitoring, etc.
32. However Class Licenses may be considered at the SDCA level to ensure better penetration in un-served areas.
33. Annual License fee may be prescribed at 6% of AGR (5% USO + 1% administrative cost) subject to a minimum fixed levy to deter non-serious players. This should be uniformly applicable to all licensees.
34. However, the 1<sup>st</sup> & 2<sup>nd</sup> Circle Cellular licensees who have been granted a 2% reduction in revenue share license fee for a period of 4 years starting April 1, 2004, must continue to be entitled to a lower revenue share license fee for the stipulated 4 year period, even under the new regime.
35. Interconnection should be non-discriminatory and uniform for all access services under a unified license. Special rules must be applied to operators with significant market power, especially in infrastructure. Except under extraordinary circumstances, direct interconnection between various service providers should be mandatory. Publication of RIO by all operators should also be mandated to safeguard consumer interest as well as take care of the concerns of smaller / pure-play/ new operators

36. The concept of service-specific interconnection should be done away with for access services under unified licensing regime. Prevalent service specific interconnection has resulted in sub-optimal routing and higher costs for both the consumers and the operators for some services. Continuation of such anomalous interconnection arrangements would be undesirable in the light of technology neutrality and unified licensing.
37. The Authority must examine the costs and benefits of introducing CAC / carrier pre-selection before taking a decision in this regard. If carrier pre-selection is to be introduced, then the cost of implementation must be borne by each individual operator (including BSNL / MTNL) for their own networks.
38. Existing numbering plan for each service may be continued even under the new regime. All competing operators must have comparable numbering plans including the number of digits that a customer has to dial to access a competing service. Registration Charges should include the charges for number allocation.
39. The very rationale enunciated by the Authority in introducing unified licensing i.e. removing artificial barriers, blurring of boundaries, ability of operators to offer services using a particular technology, etc, requires that direct inter-circle connectivity should be permitted.
40. Permitting direct inter-circle connectivity would help in addressing an existing anomaly wherein BSNL by virtue of its all India license is interconnecting across borders, thus offering a facility that is presently denied to private operators and also be in the best interests of consumers.
41. A unified licensee should be permitted to directly interconnect across adjacent and non-contiguous areas (anywhere to anywhere), as right to offer long distance services is part of a unified license.
42. A circle based service provider with a unified license for his service area, will get the following rights :
  - a. Access
    - Right to offer all types of access services within his service area
  - b. National Long Distance
    - Right to carry long distance traffic of any subscriber within his licensed service area (including subscribers of other operators)
    - Right to carry national long distance traffic outside his service area (after entering into appropriate arrangements / agreements with other service providers) for his own subscribers as well as for subscribers of other operators.
  - c. International Long Distance
    - Right to set up an International gateway in his licensed service area for catering to ILD calls to & from his licensed service area
43. An all India unified telecom licensee on the other hand will be able to provide access services throughout the country. Further, he will be able to pick up the NLD traffic of any subscriber anywhere in the country and carry it to any national or international destination.
44. This approach would also help develop the plurality of players in long distance and ensure widespread and ample competition in this segment. Under these circumstances as also for reasons stated in pre-paras, it again may not be necessary to stipulate rollout obligations for NLD / ILD.
45. For Fixed, Mobile and UASL operators choosing to stay under the existing regime, this should be confined to adjacent / adjoining circle connectivity and these service providers should be allowed to terminate their own subscriber traffic in the Fixed, Mobile or UASL operators' network in adjoining / adjacent circles only.

46. Infrastructure sharing should be permitted and encouraged between different operators in the same service area and between the same operator in different service areas. In fact, the Authority may like to consider making it mandatory for the incumbent PTT to share all passive infrastructures with the private operators. This infrastructure has been built up over decades through revenues from a monopolistic regime and thus through public funds. Further, mandated sharing will also help speed up the growth process.

47. Reselling may be permitted under a unified license.

48. The issue of competition safeguards and special provisions for SMP operators under unified licensing must be addressed by the Authority on a priority basis to address the concerns of smaller / pure-play new operators.

49. In this context, an expeditious implementation and enforcement of the Reporting System on Accounting Separation Regulation, 2004 (4 of 2004) recently notified by the Authority, will go a long way towards addressing the concerns of smaller / pure-play / new operators in the unified licensing regime.

The issue of harmonization of the FDI Limit under unified licensing also needs to be considered by the Authority.

## ISPAI

We appreciate that the Authority adopted a two-stage consultation process for this important and crucial subject. Public consultation is a very fundamental aspect of a transparent, fair and forward-looking regulatory framework.

Ever since its inception in 1997, TRAI has been releasing consultation papers on various issues and has tried to work in a transparent manner towards framing its recommendations accordingly.

Before we come to the specific questions raised in the consultation paper, we want to bring six specific points to the kind attention of the Authority:

### 1 Impact of entry barriers on market structure and sustainable innovation

It is a fallacy to believe that all the possible competitors in the telecom sector have already entered the field, especially when one considers the fast-changing technologies as well as enormous opportunities for innovations in a fast-growing market.

It is relevant to quote from OECD's STI Working Paper 2004/3 titled 'Business Dynamics, Regulation and Performance':

"...entry rates, i.e. the number of new firms in a market in relation to all active enterprises, were particularly high in Information and Communication (ICT) related industries in recent years. new firms are important for the development and implementation of new technologies....high rates of firm entry tend to coincide with rapid productivity, output and employment growth, especially in the ICT related services sectors and in some business services industries. This represents further empirical support for the notion that young firms play an important role for productivity, growth and thus, economic performance."

Hence, any new policy framework must be consistent with the principles of technology neutrality to ensure that progress continues through institutional dynamic disequilibria even if today's challenger turns into tomorrow's legacies and today's latest technology becomes the albatross around the nation's neck.

## **2 Level-Playing Field**

Since various services were introduced at different points of time and with different levels of competition and the corresponding Licencing Terms & Conditions – at times even for the same type of services, while considering unification thereof does pose challenges and a balance has to be struck across various rights and obligations as well as between incentives for investments and the crying need for competition at all the levels.

It may be notable that if one were to offer UMS (Unified Messaging Service) on an All India basis, one is required to apply for SDCA wide license. This implies submission of 2645 applications with a bank guarantee of Rs. 3 lakhs. Thus, the total bank guarantee towards UMS license works out to Rs. 79.35 crores which is much higher than even that for an ILDO! The point is that such inconsistencies do exist but we need to move ahead.

Many access providers argue that since they have/had paid certain entry fees, any new operator should also be made to pay the similar levels of entry fees. The proponents of such arguments forget that it was such operators only who defaulted on payment of license fees committed by themselves and have already received two big rounds of concessions of license fees besides removal of the rollout obligations by such access providers. It should also be realized that they do have significant headstart vis-à-vis any new operator that comes in.

Hence, in order to have a 'level-playing field' first and foremost we should have a real leveled field. It is more desirable to ease out the burdens on the existing licensees than to impose the same burdens on the newcomers as well.

## **3 Definition of 'Facility Based Operator'**

Though an ISP is often referred to as a non-facility based operator, the fact is that usually the ISPs do invest in the infrastructure like PoPs, gateways and even last mile. In fact, considering these aspects the government too granted 'infrastructure status' to the ISPs vide the Finance Act, 2001.

Thus, before proceeding on any distinction based on 'facility based' and 'non-facility based' it is of utmost importance to define the term 'facility' unambiguously.

## **4 Significant Market Power**

Irrespective of the merits in the concept of Unified Licensing Regime, it is highly desirable that to prevent possible abuse arising out of cartelisation and/or significant market power (SMP), asymmetric regulation be applied on the integrated operators. In this context, 'accounting separation' and 'transfer pricing' become very important. The access to infrastructure – including but not limited to the bottleneck facilities, must be on a non-discriminatory basis.

## **5 Internet Telephony**

The vision of creating world-class telecom infrastructure as espoused in the NTP 1999 would remain a pipe-dream if the common man in India continues to be deprived of the benefits of this revolutionary technology. The fact is that currently, an automobile manufacturer can call from Mumbai to Detroit by paying less (using Internet Telephony) than what a taxi driver in Mumbai has to pay to call his family in Gorakhpur since the latter cannot avail the benefit of lower tariffs by using Internet Telephony.

## 6 Exclusion of Broadcast Services from the proposed scope of Unified Licensing Regime

Traditionally, broadcasting services were in the form of 'one to many' wherein 'one' would transmit / talk while 'many' would 'receive / listen' – mostly through wireless. Similarly, telecommunication services were in the form of 'one to one' wherein both the 'ones' could talk as well as listen – mostly through wired networks but also through wireless, albeit less often so.

Thanks to the technological developments, such distinction between 'broadcast' and 'telecommunication' has blurred to the extent that wired networks (e.g. cable TV) are used for distributing broadcast signals and wireless networks are the order of the day for communication. Internet can be used for unicast/multicast and FM radio can be used for SMS.

The government gazette notification no. .... dated 9 January 2004, modifying the definition of 'telecom services' to include, *inter alia*, broadcasting & cable TV, DTH, etc. should be considered in this context. The regulation of these services was also brought about under the aegis of the Authority.

Admittedly, the aforesaid change in the definition of 'telecommunications service' was brought about well after the Authority had issued its preliminary consultation paper (no. 5/2003) dated 15 November 2003. However, at the time of releasing the current consultation paper on 13 March 2004, these services were and continue to be very much part of the telecom services.

Thus, it is surprising that none of these services find even a passing mention in this consultation paper (6/2004) and the issues raised herein are limited to the erstwhile narrow and limited definition of 'telecommunication service' as prevailing prior to the notification dated 9 January 2004.

Since the current consultation paper does not cover the broadened ambit and scope of telecommunications services, any decision and/or recommendation finalized thereon would be necessarily incomplete and would defy the very *raison d'être* of this consultation process.

Hence, it is of utmost importance that rather than rushing on with the current consultation paper, the Authority should release a supplementary consultation paper covering all the telecommunications services or better still, release a new consultation paper.

This change may take some more time but the wait would be worth since it will enable the Authority to take a holistic view of all the telecommunication services and set the tone for true convergence and work out a framework for full unified licensing regime in its proper context.

The Authority had issued a consultation paper on 15 November 2003 on the Unified Licensing Regime and we had responded thereto. We are enclosing our responses to the specific questions raised in the current consultation paper based on, *inter alia*, the discussions during the open house held on 12 May 2004 in New Delhi on this subject.

We sincerely believe that our response would be given due consideration by the Authority. Needless to add that we shall be only too glad to provide additional details to the Authority in this regard, if so required. We keenly look forward to early fruition of the envisioned scenario detailed in the consultation paper.