**DG/COAI/2022/269**
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**Subject: COAI response to the TRAI CP on "Rationalization of Entry Fee and Bank Guarantees"**

**Dear Sir,**

This is with reference to the Consultation Paper issued by TRAI on "Rationalization of Entry Fee and Bank Guarantees" on 26th July 2022.

In this regard, please find enclosed COAI response to the Consultation Paper.

We hope that our submission will merit your kind consideration and support.

Regards,

**Lt. Gen Dr. SP Kochhar**
**Director General**

**Cc:**

1. Dr. P. D. Vaghela, IAS, Chairman, TRAI, Mahanagar Doorsanchar Bhawan, Jawaharlal Nehru Marg, New Delhi

2. Shri V. Raghunandan, Secretary, TRAI, Mahanagar Doorsanchar Bhawan, Jawaharlal Nehru Marg, New Delhi

3. Principal Advisor (F&EA), TRAI, Mahanagar Doorsanchar Bhawan, Jawaharlal Nehru Marg, New Delhi

**COAI Response to the TRAI Consultation Paper on "Rationalization of Entry Fee and Bank Guarantees"**

We thank the Authority for providing us the opportunity to provide the comments on the TRAI Consultation Paper on "Rationalization of Entry Fee and Bank Guarantees".

We believe that this Consultation Paper is in line with the Structural and Procedural Reforms by the Government implemented on 15th September 2021. Through these reforms, the Government has also ensured that the business viability of the service providers are further enhanced through reduction in the amount of Bank Guarantees required to securitize the License and Spectrum fee payments and other License obligations.

Performance Bank Guarantees and Financial Bank Guarantees have been a huge burden on TSPs. This step of reduction in Bank Guarantee will enable the availability of more funding for the expansion of the Telecom Network which will go a long way in fulfilment of Digital India's vision of the Honorable PM of India.

However, we respectfully submit that there is a further need to eliminate the requirement of Bank Guarantees altogether to pave the way for more liquidity in the telecom sector for enhanced customer experience.

**A summary of our submission is as follows:**

1. We submit that the Licensees had paid huge amounts of non-refundable **Entry Fee** before acquiring a particular Licensed service and subsequent Authorizations.

2. Any reduction on the amount of Entry Fee for the new entrants would undermine the policy of the level playing field amongst the incumbent licensed service providers and new licensees.

3. Irrespective of the nature of license, the Entry Fee, thus should not be reduced, to ensure that healthy competition and level playing field prevails in the industry which would enable the sector to attract investments.

4. Experience of last few years of various new authorizations and licenses granted by the DoT indicate that current levels of Entry Fees are no barrier for any entity to come in the market.

5. **In fact the prescribed Entry fee ensures that only Serious Players, who foresee long term goals in the telecom sector, participate and compete by deploying latest technology and products which envisage better customer experience at a competitive price.**

6. The FBG and PBG are required to securitize the liabilities of license fee and other non-securitized dues on one hand, and violation of license and performance conditions on the other. In the current scenario, there are hardly any serious violations by the TSPs, on the licensing and performance related guidelines as mentioned in the license. Thus, the basic purpose of the earlier Bank Guarantees for the afore-mentioned securitization does not prevail.

7. All Telecom Licensees have to pay License and Spectrum fees apart from ensuring compliance to other license obligations. Similarly, various Sales and Service providers/Organizations have to pay GST on their sales and services provided. Just like Government has exempted need of taking bank guarantee, etc. for securitizing their GST receivables from Sales and Service providers/Organizations, similarly, bank guarantees should be dispensed with in case of payments by Telecom Service Providers.

   In view of the above, it is suggested that the requirement of Bank Guarantees (both PBG and FBG) by the existing Telecom Licensees should be completely done away with paving the way of "Ease of Doing Business" and improving the Cash Flow / liquidity of the sector.

8. Thus, **we strongly feel that the practice of the Bank Guarantees** (both PBG and FBG) **for existing Licenses/Authorizations should be done away with**.

<u>**Our detailed question wise response is as follows**</u>

**Q1. Should the entry fee be rationalized from the present levels in the UL and UL (VNO) licenses? Please support your comments with detailed justification.**

**&**

**Q2. If the answer to Q1 is yes, should the entry fee be rationalized across all authorizations or some specific authorizations, both within each license and across licenses? Please justify.**

**&**

**Q3. What should be the methodology for arriving at the rationalized entry fee and/ or other terms and conditions for each authorization? Please provide the detailed rationale for each authorization.**

**COAI Response**

a. Government has already delinked the allocation of spectrum from license in 2013 and significantly reduced the entry fee from Rs. 1,658.57 crore under UASL 2003 to Rs. 15 crore under UL 2013 regime for a pan-India access License. The above scenario does not leave any scope for further reduction of Entry Fee. The existing entry fee should prevail for a healthy competitive environment.

b. As stated above, the current entry fee has already been reduced through various amendments in the License by DoT. The telecom industry has been striving forward to upgrade its network to fulfill the vision of "Digital India". TSPs have already paid huge amount of non-refundable Entry Fee at the time of acquiring the license. Since the entry fee is "non-refundable", any reduction of the same for the new entrants would undermine the policy of the level playing field amongst the incumbent licensed service providers and new licensees.

c. Also, in past 5 years, several licensees have taken Access/ NLD/ ILD/ISP authorizations which clearly depicts that entry fee has not been a barrier for new entrants to function in the telecom industry.

d. The number of players in the sector is driven by business viability and ROCE. The business viability of the telecom sector has been adversely impacted by high levies and low tariffs. The number of Telecom VNO Licenses - Access Service Licenses has risen from 28 (cumulative Nos.) in 2017-18 to 346 in 2021-22. Similarly, Telecom VNO Licenses - ISP licensees have risen from a mere 73 (cumulative Nos.) in 2017-18 to 489 in 2021-22. Thus, in could be well established that the entry fee has not in any way impacted the number of players in the sector and the present low level Entry Fee is also not a barrier for new entrants.[1]

e. In fact the prescribed Entry fee ensures that only Serious Players, who foresee long term goals in the telecom sector, participate and compete by deploying latest technology and products which envisage better customer experience at a competitive price. Irrespective of the nature of license, the Entry Fee is reasonable and, thus should not be reduced further, to ensure that healthy competition and level playing field prevails in the industry which would enable the sector to attract investments.

**Q4. Should a uniform Entry Fee be charged for each of the authorizations in the UL and UL (VNO) licenses, both within each license and across licenses? Please justify.**

**&**

**Q5. What should be the amount of the uniform Entry Fee for various authorizations? Please justify.**

**&**

**Q6. Should the Entry Fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) be rationalized? If yes, please provide the reasons and appropriate levels of entry fee for each of these licenses/ registrations/ authorisations/ permissions.**

**COAI Response**

a. At present the fee for various Authorizations within UL varies from INR 0.002 Cr. for M2M ‘C’ (SSA) and ISP ‘C’ (SSA) to INR 1 Cr. per Access Service for a LSA. We believe that given the vast difference it may not be possible to arrive at a uniform Entry fee.

b. Also, we are in agreement with the statement mentioned in the TRAI Consultation paper that each authorization requires a distinct set of inputs to deliver a particular service to the customer and differ in terms of market share and financial parameters. Hence, Entry Fee should be in line with the same and be charged separately for each of the authorizations, as the differentiation in authorization accounts for vast difference in services, their scope, technical aspects and seriousness required. Hence it will not be prudent to have one uniform Entry Fee for all service authorizations and will be complex too.

[1] Source: https://dot.dashboard.nic.in/DashboardF.aspx

c. Hence, as submitted by us in response to Q1, 2 & 3 above, we reiterate that the present structure of Entry Fee should be retained.

**Q7. Is there a need to continue with the practice of the Bank Guarantee in various licenses/authorizations? Please Justify.**

**COAI Response**

a. No, we believe that practice of asking Bank Guarantees has outlived its utility, and this practice should be done away with, allowing existing TSPs / licensees to deploy the precious funds/credit lines more effectively in networks and services.

b. Provisions of Bank Guarantees are financial restrictions which are imposed on the telecom sector and have been a hindrance for the service providers infusion of investments in the sector. The quantum of charges and other securities being levied by the banks for providing a BG has increased manifold, thus impacting the liquidity of the service providers. These guarantees are inherently an inefficient way of doing business as they transcend banking lines and consume collateral and margin money to siphon working capital from TSPs who is already starved of funds.

c. Under the Unified License regime, the licensee was required to submit Performance Bank Guarantee (PBG) separately for each service and service area for a maximum for Rs. 220 Cr. initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, to cover violation of license condition and to ensure the performance under the license agreement including compliance of the instructions issued by the licensor from time to time.

d. Similarly, Financial Bank Guarantee (FBG) was required to be submitted by the licensee separately for each service and service area for the amount subject to a maximum of Rs. 44 Cr. initially before signing of the License Agreement or subsequent authorization of service(s) as the case may be. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to License fee for two quarters and other dues not otherwise securitized.

e. In the recent reforms introduced on 15th September 2021, Govt. has reduced BGs by 80% through amendment in Unified License Agreement. The PBG was reduced from maximum of Rs. 220 Cr. to Rs. 44 Cr. Similarly, the FBGs was reduced from maximum of Rs. 44 Cr. to Rs. 8.8 Cr. initially before signing the License Agreement or subsequent authorization of service(s), as the case may be. Subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).

f. The financial bank guarantees are to securitize payments of Licence Fee/Spectrum Usage Charge/spectrum deferred instalments. The provision of FBGs is not available in Income Tax or GST, etc. where the Government relies on corporates to pay the statutory dues which runs into thousands of crores.

g. **In this regard it is pertinent to note that at present the players in telecom sector are amongst the biggest and most reputed business houses of India who have a long-term commitment towards fulfilment of the Digital India vision.**

h. Hence, we believe that there should not be any burden of bank guarantees on existing telecom service providers.

i. Thus, **we strongly feel that the practice of the Bank Guarantees in various Licenses/Authorizations for existing licensees should be done away with**. TSPs have been submitting Performance Bank Guarantees towards the minimum rollout obligations even though TSPs have spent thousands of crores in acquiring the spectrum and any delay in network rollout is a direct revenue loss for TSPs.

j. Any levy of penalty or non-payment of dues, which otherwise would have been securitized through BGs, can be recovered through additional demand for such dues to the concerned Service Provider.

**Q8. If the answer to Q7 is no, then what practice should be followed to secure the Government dues and performance of service providers?**

**COAI Response**

a. Banks currently meet 100% of the guarantee requirements for the telecom and infrastructure sectors. These guarantees are intrinsically inefficient because they consume collateral and margin money to siphon working capital from a service provider who is already cash strapped.

b. Also, the license already contains options other than bank guarantees to ensure security of the dues for the Government like interest, etc.

c. Hence, from an ease of doing business perspective, self-assessment mechanism should be suitably designed thereby achieving minimal litigation and resulting in doing away with the need to secure dues through bank guarantees.

**Q9. Is there any justification for merging the two bank guarantees i.e., Financial Bank Guarantee and Performance Bank Guarantee? Please give detailed justification.**

**COAI Response**

a. The FBG and PBG are required to securitize the liabilities of license fee and other non-securitized dues on one hand, and violation of license and performance conditions on the other. In the current scenario, there are hardly any serious violations by the TSPs, on the licensing and performance related guidelines as mentioned in the license. Thus, the basic purpose of the earlier Bank Guarantees for the afore-mentioned securitization does not prevail.

b. Thus as stated in our response to Q 7, **there should be no requirement of Bank Guarantees for existing licensees to securitize the liabilities and other payments towards license obligations.**

c. This would not only facilitate liquidity of funds and cash flow for investment in telecom sector, but it would also encourage the TSPs for deployment of latest technologies for making the sector digitally connected. This would also pave the way of FDI into the telecom sector.

**Q10. What should be the methodology to calculate the amount of merged Bank Guarantee? Please Justify. What should be associated terms and conditions with reference to financial and performance parameters?**

**COAI Response**

a. Refer response to Q. no. 9

**Q11. What should be the amount of merged bank guarantee that should be made applicable for new entrants during the first year? Please justify.**

**COAI Response**

a. We believe that requirement of bank guarantee should be done away with.

**Q12. What should be the methodology to review the merged Bank Guarantee and after how much time? Please justify. In case of failure to meet only performance parameters or only financial parameters what should be the methodology for partial encashment of BG?**

**COAI Response**

a. We would like to reiterate that the practice of the Bank Guarantees in various Licensees/Authorizations should be done away with.

**Q13. Should the merged bank guarantees be applicable for new entrants as well as existing licensees other UL/UL(VNO)? Please give justification for your response.**

**COAI Response**

a. There should be no requirement of Bank Guarantees for existing licensees to securitize the liabilities and other payments towards license obligations.

**Q14. Is there any need to merge or review the bank guarantee for the licenses/ registrations/ authorisations/ permissions other than UL and UL (VNO)? Please justify.**

**COAI Response**

a. Refer our response in Q 9.

**Q15. Any other relevant issue that you would like to highlight in relation to the above issues?**

**COAI Response**

NA