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**Subject: ISPAI response to TRAI Paper on “Ease of doing Telecom Business in India”**

Dear Sir,

We congratulate the Authority to have come out with the consultation paper on the matter captioned above and sincere thanks for proving us the opportunity to submit our response on this matter.

We have enclosed our comprehensive response for your consideration. We believe that the Authority would consider our response in positive perspective and incorporate our concerns on the subject matter.

Looking forward for your favourable consideration.

Thanking you,

With Best Regards,  
For Internet Service Providers Association of India



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**ISPAI Inputs to TRAI Paper on Ease of doing Telecom Business in India**

At the outset we thank the authority for coming up with a consultation paper on this topic and for inviting views of all the stake holders on this important topic.

As mentioned by the Authority, stakeholders can provide inputs to identify the bottlenecks, hurdles or obstacles that make difficult to do telecom business in India and require regulatory intervention.

Among which some processes could be related to:

- Unified License
- Spectrum Allotment & Use
- Provision of Telecom services using Satellite media
- Merger & Acquisition policy
- Any other processes which require simplification

In relation to the same, we would like to submit the areas of concern that affect our members and need to be reviewed by the Authority.

**1. Issues Related to Unified License:**

- **Acquiring UL License:** One page on-line application needs to be filled, covering all basic details about company. For ISP-UL (specific) no need for net-worth certificate required. Application processing fee can also be incorporated on same site for collection of "Application Fee", rather than going separately to Bharatkosh website. Default processing time of 15 days to be made, and if it is not processed deemed license should be granted to the applicant company.

Compliance of various conditions: clear cut guidelines need to be issued, and single window reporting structure is highly recommended for all reporting and that too preferably online.

- **Adding new authorization:** This should be by default, on submission of the application, provided service provider has submitted all reporting and financial requirement of existing license. A status of service providers also need to be updated online regarding regularity of reporting and license fee payments.
- **Payment of License fee:** Clear guidelines need to be provided, for multiple UL-license holders. Online payment introduced presently is a good step by the department. Ambiguity and anomalies need to be addressed.
- **Any other Issue:** As soon as the license is granted, RoW application should also be accepted from license service provider on portal, and single window clearance should be made available , either underground or over-head cabling, or even installation of wireless infrastructure.

**2. Online Reporting Portal and Payments :**

- a. For all reporting requirements, one single report covering every aspect should be made, and all departments, commercial, TERM, vigilance, etc. should be provided relevant information from that report, rather than sending different reports to different agencies at different frequencies.
- b. Service Providers have to provide quantitative and qualitative data in various formats to the DoT at different points. There is a need to make an online portal for reporting of data.
- c. Payment of license fees, etc. should also be provisioned via wire transfer such as RTGS/online portal so that payment can be made by operators directly to the credit of DoT.

**3. Introduction of License fee deduction at Source(LfDS):**

- TRAI vide its Recommendation dated January 2015 on “Definition of Revenue Base (AGR) for the Reckoning of Licence Fee and Spectrum Usage Charges” made following recommendations:

*“The Authority is of the view that steps should be immediately taken by the DoT to introduce a system of LfDSw.e.f. 1st April 2015 and develop an e-portal for submission of LF and SUC by 1st April 2016. The Authority also recommends that the transition to the LfDS system may be initiated at the earliest, by putting in place a system for electronic/ online filing of licencees’ returns.”*

- Though, TRAI had recommended transition to the LfDS system there has been little progress in this regard. We request TRAI to kindly reiterate its Recommendations to DoT on LfDS and also suggest that this system needs to be in place by March 2018.

**4. Import License for RF Equipment**

- a. Currently, telecom operators are required to get import licences for all RF equipment procured from outside the country. Without this; Customs does not clear the RF equipment for entry into India. The requirement acts as a significant bottleneck for operators as getting clearance take up to 1-2 months and in the meanwhile, their RF equipment are held up by the Customs.
- b. Moreover, seeking import licences for every circle separately is also problematic since telecom operators having Pan India presence cannot import RF equipment in large quantities and deploy in their different licensed areas as and when required. In fact, moving RF equipment from one circle to another requires additional prior clearances. Therefore, the requirement of import licence is adversely affecting the network planning (both short-term and long-term) and network rollouts of telecom operators.

c. We believe that the whole objective of an import licence is merely to ensure that the DoT is well informed of the details of imported RF equipment, as well as its installation in licensed service areas. According to us, this objective can be achieved by DoT by seeking periodic reports from telecom operators than requiring them to seek a separate licence for all RF equipment's.

**5. Introduction of M Bill enabling replacement of hard copy of mobile bill as default option for postpaid subscribers**

- a. We are of the view that the introduction of default option of mobile bill or e bill for the postpaid subscribers would provide a much needed boost to the Government of India's efforts towards digitalization.
- b. The M-bill option has been worked out for such customers who may not have the email account for receiving the telephone bill.
- c. M-bill is not only an environment friendly solution; it will also help in operational cost optimization for the telecom service providers. These options will provide the much needed support to the Government's policy objective of Digital India as well. At present, the 46<sup>th</sup> amendment to the telecom tariff order mandates service providers to provide a hard copy of the bill by default to the customer. There is no provision to provide the customer the default option of paper less bill in terms of E-bill or M-bill.
- d. With the introduction of M-bill as another option for paperless billing, it is requested that the extant 46<sup>th</sup> TTO may be amended so that M-bill or E- bill can be considered as default option for postpaid billing.
- e. In case of Enterprise customers, E-acquisition of these customers would further help in simplifying the tedious process. Also, electronic execution of contracts/agreements with customers and service providers will further support the digitization of processes.
- f. E-storage of documents and customer contracts
- g. A secured portal with the capability of electronic filing of Tariff Plans to TRAI should be developed

**6. SACFA related Issues:**

➤ **Reduction in number of application leading to cost Optimization**

- i. Since the main aim of SACFA is to ensure aviation safety and security which has been addressed by taking one clearance for a tower/ antenna / site. There is no additional benefit by evaluating the same site / tower again and again even when an additional antenna is

added to the site / tower as it doesn't affect the current status of aviation safety and security. Also the MW sites SACFA application parameters need to be merged with RF sites so as to avoid duplicity in filing.

- ii. Further, there is no need to obtain SACFA clearance for each and every site deployed in the network as all sites do not affect the aviation safety and security aspects. It is suggested as follows:
  - SACFA to be obtained only for those sites which are <3 KMs from the nearest Airport and for the sites having height >40 ms between 3-10 Kms of the airport.
  - Only intimation to be given to SACFA secretariat for sites <40 ms height & distance >3 km from Airport and for the sites which are >40Ms in height but beyond 10 Kms from the nearest Airport.
- iii. Paperless submission of SACFA application is also proposed with online clearance as this will enable a faster clearance and hence much faster roll-out of the industry.
- iv. The above suggestion will not only bring huge cost saving to the industry but also optimize the overall work and enhance work efficiency in terms of faster approvals at WPC end.
- v. **WPC is not processing SACFA for Unlicensed band radios since 2013, This is a big issue during ISP inspection by TERM Cells**

➤ **Reduction in the Application Fee**

- i. Currently, TSP is to pay Rs 1000/- per application while applying a SACFA through WPC online website/ TSP is to pay application fee separately for GSM and MW (link to link).
- ii. TSPs are mandated to apply for each and every antenna being added on any existing site/tower, for which SACFA clearance has already been obtained from WPC under the "Additional Antenna" category.
- iii. The current Application fee and its structure need to be reviewed.
- iv. It is suggested that WPC should charge Rs 1000/- basis the per 100 application lot instead of each application to compensate the administrative / website maintenance charges.

➤ **Single clearance for multiple technology application**

- i. TSPs are currently in the process of deploying higher technologies and need to send multiple applications for SACFA clearance for a same tower. This becomes more complex for sharing of same tower by other TSPs.

- ii. In order to ease of doing business, instead of multiple approvals for each application for a particular tower, single clearance should be given in a time bound manner.

## **7. Spectrum Issues:**

- a. **Lack of a clear roadmap for future availability of spectrum.**
  - i. While most of the spectrum reforms have been carried out, there is still a need to provide a clear roadmap for future availability of spectrum.
  - ii. New Spectrum bands need to be identified for delicensing so that broadband penetration is increased as the current bands are not sufficient,
- b. **Assignment of spectrum:**
  - i. Single window clearance process needs to be established for the Satellite spectrum assignment covering ISRO/Antrix/NOCC/WPC/SACFA clearances.
  - ii. Service Providers shall be allowed to use the Spectrum as per their business and operational requirements including shuffling of carriers, change of Modulation, Data rate, FEC, etc within their allocated spectrum whenever necessary.

## **8. Revision of Penalty Structure:**

- a. It is important to assess the severity of the incident before imposition of financial penalty. Any concerns or issues that arise in this regard should be examined on merits and imposition of a penalty should be considered only when it is clearly established without doubt that there is willful conduct for the purpose of non-compliance on the part of the licensee on the any of the following accounts:
  - i. Security conditions (Breach of Security)
  - ii. Loss to the exchequer (Impact on other service area, Impact on National Policy, Revenue Loss to Govt., Economic Loss to Govt.)
  - iii. Anti-consumer (Gain by Service Provider, Loss to third party, revenue gain by service provider)
  - iv. Anti-competitive (Impact on other service area)
- b. All instances of non-compliance of various nature might not call for penalty at the first instance itself or that might not be so severe in nature that the maximum penalty prescribed for that particular classification should be levied in the first instance itself.
- c. Each penalty does not call for 50 crores penalty. A suitable matrix depending on the severity of the incident to be applied.

- d. TRAI may Recommend that a suitable appellate process at the DoT Headquarters, need to be established to independently review the imposition of penalties, hear licensees and independently review and conclude on the matter.

#### **9. Definition of Revenue for License Fee (LF) and Spectrum Usage Charge (SUC)**

- a. The revenue for the purpose of calculation of LF should be from the operation of the telecom license (activities for which an exclusive license has been granted under Indian Telegraph Act, 1885). Furthermore, SUC should only be levied on the wireless revenue from licensed spectrum. Non telecom incomes should not come under the purview of LF and SUC.
- b. However, DoT had been including the revenue from non-telecom business activities for the purpose of calculation of LF and further revenue from non-wireless activities for the purpose of SUC. The inclusion of such revenues is beyond the scope of the migration package agreed in 1999 and subsequent recommendations of TRAI.
- c. The matter is under litigations in various courts for more than a decade, initially in TDSAT, then in Supreme Court, thereafter in TDSAT again and currently it is before the Hon'ble Supreme Court and various High Courts.
- d. TRAI at various occasions during 2000, 2005, 2006, 2015 has consistently maintained that the license fee should be payable only on revenue from licensed activities and SUC should be payable on revenue from wireless services.
- e. Further, the process of verification of deduction claim is extremely complex and leads to disputes for which there is no process of appeal in DoT.

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