

ISPAI Response to TRAI Consultation Paper on Rationalization of Entry Fee and Bank Guarantees

ISSUES FOR CONSULTATION

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

ISPAI Response:

Yes, the entry fee of many authorisation must be rationalised. Ideally, there should be two categories of services, one using scarce natural resources, and the other which doesn't require any scarce resources. For the category, not using any scarce national resources, only a token registration process should be there instead of license, because they are the service companies who will be putting huge resources of their own to create the infrastructure.

For example if a businessman is starting a business, no license fee is required by GST department or Income-tax department. Similarly for those business, who are not likely to use any scarce national resources, must be exempted from license Raj.

For those licenses where scarce national resources are used, there can be some reasonable license fee need to be collected, just to ensure that only serious players enters the market.

For some special categories like ILD, or satellite communication, internet gateway etc. entry fee can also be proposed, as it also deals with security of the nation, and only credible players need to be allowed.

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.

ISPAI Response:

As prescribed, in answer to Q-1, number of licensing or rather registration categories need to be revised to 3 to 4 (Inland services not using any scarce natural resources, Inland services using scarce national resources, Services where national security comes in picture like ILD services, or Satellite communication), and authorisation level can also be reduced to 2 (circle level and national level) from present 3 (SSA level, circle level, national level)

For all service categories, which doesn't require scarce resources, license requirements need to be abolished, or can be kept minimal as a token registration fee only.

For services requires scarce national resources, license fee should also be rationalised to promote effective competition in the sector.

Alternatively government can propose licensing for foreign companies interested to do business in India.

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.

ISPAI Response:

For all categories of services, there can be minimum prescribed roll-out obligation, for example, any wire line service authorisation in state need to start services in 1 district in first 1 year, and should have presence in at least 2 or 3 districts in 2 years, from date of signing of agreement.

Similarly for national level operator, there can be prescribed roll-out obligation, rather than levy of license fee.

Even an idea of investment in infrastructure can also be linked, as an obligation in lieu of license fee. Or alternatively number of people employed can also be linked to incentivise license fees.

For services, which require scarce resources, entry fee also need to be rationalised based on certain criteria mentioned above.

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.

ISPAI Response:

In fact there should be no licensing for companies wish to provide Inland services, which doesn't require any scarce national resources. Only 3 to 4 categories of registration need to be proposed, and 2 types of authorisation. For example any wire line service license (including Fixed Wireless) should allow operator to provide all types of services, within the prescribed service area. License should be technology neutral, and should have only demarcation like: license required scarce national resources or not? License requires security concerns, like internet gateway, satellite communication, or ILD operation.

For all services which doesn't use any national resources, should be promoted with maximum possible help to create effective competitive environment, and global competitiveness.

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

ISPAI Response:

Entry fee need to be considered as a revenue stream for government, and should not be detrimental to promote effective competition. For services which doesn't require any scarce resources, licenses need to be abolished. Token registration fee should be taken and entry fee can be waived off for a period of 5 to 10 years, to ensure fair competitive market. And for those service providers who are using scarce resources, there is already an auction mechanism for procurement of such resources, so there also license fee need to be kept at minimal.

Alternatively, a token entry fee need to be taken as deposit, against roll-out obligation. Once a service provider starts the services as per obligation, those deposits must be returned.

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.

ISPAI Response:

Most of the entry fees of every licenses must be removed for few years, to ensure effective competitiveness in all vertical of telecom services. In fact for all services which are not using any scares resources, licensing must be abolished and a simple registration process need to be proposed. Many of the verticals lag the effective market completion because of few players.

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

ISPAI Response:

Basically bank guarantees are taken for securitisation of license fee, and to ensure that if licensee doesn't violate any licensing condition to collect penalty.

For licenses who doesn't use any scares resources of the nation, license regime need to be removed and alternate registration process only to be proposed. This will reduce the requirement of bank guarantee for many licensee.

For those service providers, which requires scares resources, or are not from India, there should be some securitisation mechanism need to be worked out.

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

ISPAI Response:

Some alternate mechanism need to be worked out, as if a businessman fails to pay GST, or Income-tax he is liable to legal action, but is not been asked to securitize his future obligations. Similarly a proper legal framework need to be worked out to do away with 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.

ISPAI Response: Already covered in Q7 and Q8 answers.

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?

ISPAI Response: Authorities need to work out alternate legal framework to avoid bank guarantees

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

ISPAI Response: Already covered in previous answers.

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?

ISPAI Response: Already covered in earlier answers

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.

ISPAI Response:

Yes, BG should be abolished for most licenses and should be applicable to both new as well as existing licenses.

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.

ISPAI Response:

No new licensing burden should be added for any registration. Licensing burden need to be eased for many services in way of simplification of processes and abolishing license fee. Alternate mechanism for revenue assurance to government and performance assurance for customers from service provider need to be worked out thru legal frame work, to abolishing the requirement of BG.

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

ISPAI Response:

Most of the licenses procedures need to be simplified, in similar line of getting GST registration or getting PAN card. Only those services where scares national resources are used, or any foreign company is involved in management, there only some strict norms need to be followed. This will enhance the competitiveness of the Indian service providers. Abolishment of license regime, and BG requirements will also enhance the cash flow of service provider, which they can deploy in creating infrastructure.

Alternatively, roll-out obligation, and performance measurement parameters need to be strengthened. Proper legal framework in line with GST or Income-tax, should be established to ensure the revenue of government, where license fee are applicable.
