

ISPAI response to TRAI Consultation Paper
on
Inputs for Formulation of National Telecom Policy - 2018

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

Q.1 Stakeholders are requested to give their comments on structure and contents of the proposed inputs for National Telecom Policy, 2018, clearly outlining the specifics along with justification.

We would like to submit our broad inputs that NTP 2018 should include:

- a) Better financing terms to be made available for companies to grow – Better financing options with lower interest and or lesser security norms will allow companies to make larger investments in networks and to grow telecom requirements more. Companies can be offered better credit facilities based on their age, rating director rating etc to help grow business.
- b) Offering tax concessions to IT and Telecom related industries to help make them grow. 5-10 year window to be provided which will encourage growth and investment.
- c) Lowering GST from 18% to 12% will again create avenues for better penetration of services to clients and make services more affordable.
- d) Easier and more open IOT norms.
- e) Easier exit options for companies not performing. Moreover encouragement to telecom companies to come forth for settlement of old issues and a more free hand to be given to DOT and Telecom Ministry without fear of being prosecuted for closing age old disputes. More empowerment will help close open items which takes time and money from both sides and defocus business growth.
- f) Sharing of resources to be made mandatory between telecom providers at all levels. Telco's should share their laid network with ISP so better penetration and focus to client can be offered.
- g) Single window system from applications to any issue settlement.
- h) Encouraging license holders' vis-a-vis non licensed players. Positive steps as well as steps to discourage non- licensed activities.
- i) Easier roll-out laws to be encouraged by local bodies to help easier internet penetration. Same time parties to be encouraged to ensure compliance of local laws paying taxes etc.

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- j) Encouraging smaller companies and setting aside projects of smaller size for smaller companies to execute.

Q.2 Stakeholders may also suggest any other issue related to Policy Framework which stakeholders feel is important for growth of telecom sector, along with justification.

A. Licensing Framework

Security conditions of Unified License

1. ***39.6 In furtherance of organizational security policy, the LICENSEE shall audit its network or get the network audited from security point of view once in a financial year from a network audit and certification agency. The first audit may be carried out in the financial year succeeding the financial year of the signing of the LICENSE/ Service authorization. The LICENSEE is free to engage the service of any agency for this purpose, which is certified to carry out the audit as per relevant ISO standards. Presently ISO 15408 and ISO 27001 standards are applicable.***

ISPAI submission: This condition is difficult particularly for smaller ISP to afford. Also the ISP themselves are the best agency to do the Audit. Moreover TERM has been regularly doing the check.

2. ***The LICENSEE shall induct only those network elements into its telecom network, which have been got tested as per relevant contemporary Indian or International Security Standards e.g. IT and IT related elements against ISO/IEC 15408 standards, for Information Security Management System against ISO 27000 series Standards, Telecom and Telecom related elements against 3GPP security standards, 3GPP2 security standards etc. The certification shall be got done only from authorized and certified agencies/ labs in India or as may be specified by the Licensor. The copies of test results and test certificates shall be kept by the LICENSEE for a period of 10 years from the date of procurement of equipment.***

ISPAI submission: This condition is also not appropriate as this is beyond the purview of DOT and as it comes under the Ministry of Trade and Commerce. They allow/permit import

after various conditions. That itself is deemed certificate. No responsibilities should be on ISPS.

3. 39.9 The LICENSEE shall

(v) Keep a record of supply chain of the products (hardware/ software). This should be taken from the manufacturer/ vendor/ supplier at the time of procurement of the products.

ISPAI submission: This condition again is not possible by ISP. This being done by Ministry of Trade and Commerce. They allow after various channels and that itself should be deemed as certified and they should be held responsible.

- 4. 39.10 (ii) *The Licensee through suitable agreement clauses with vendor shall ensure that the Vendor/ Supplier allow the Licensee, Licensor and/ or its designated agencies to inspect the hardware, software, design, development, manufacturing facility and supply chain and subject all software to a security/ threat check any time during the supplies of equipment. The number of such visits will be limited to two in a Purchase Order (PO). The expenditure for such visits, limited upto 40 man-days per visit, for each purchase order of value above Rs 50 crore, shall be borne by the LICENSEE directly or through vendor.***

ISPAI submission: This condition again is not all feasible. No ISP could afford this. This condition need to be removed.

- 5. 39.11 (i) *A penalty uptoRs 50 crore per occasion will be levied for any security breach which has been caused due to inadvertent inadequacy/inadequacies in precaution on the part of Licensee prescribed under this License. Licensor shall constitute a five members committee, which shall include two cyber security experts, to determine whether the breach is due to inadvertent inadequacy/ inadequacies or otherwise. The committee shall also decide the amount of penalty depending upon loss, gravity of breach etc.***

ISPAI submission: The penalty clause is very high and unreasonable. It should be some percentage of Revenue generated. In case of breach caused Inadvertently, a warning has to be issued at the first instance.

6. **39.11 (ii) In case of inadequate compliance to the measures prescribed under this License, act of intentional omissions, deliberate vulnerability left into the equipment or in case of deliberate attempt for a security breach, penalty amount will be Rs. 50 crore per breach. The same breach in the same equipment purchased through same PO or in the same lot or the same negligence at the same time at multiple locations in an 37 operator's network will be considered as a single breach for the purpose of levying penalty under this clause. The LICENSEE shall deposit the penalty amount with the Licensor within 30 days of the issue of Notice.**

ISPAI submission: This clause is not accepted. The above answer applies here as well.

7. **39.11 (iii) Besides the penalty, liability and criminal proceedings under the relevant provisions of various Acts such as Indian Telegraph Act, Information Technology Act, Indian Penal Code (IPC), Criminal Procedure Code (CrPC) etc can be initiated. In such cases, LICENSE of the LICENSEE can also be terminated, vendor or supplier who supplied the hardware/software, that caused the security breach, could be blacklisted for doing business in the country or both. The LICENSEE must include the clause of discretion of blacklisting of vendor or supplier in such cases in the agreement signed with vendors/suppliers.**

ISPAI submission: The Vendors are cleared for Import by Ministry of Trade and Commerce and as such they should be responsible for blacklisting. It does not and should not come under ISP purview.

8. **39.18 The complete list of subscribers shall be made available by the Licensee on their website (having password controlled access), so that designated Security Agencies are able to obtain the subscriber list at any time, as per their convenience with the help of the password. The list should be updated on regular basis. Hard copy as and when required by security agencies shall also be furnished.**

ISPAI submission: The DOT should assure the ISP that these databases are not misused by the office Officials.

B. On Legislative Framework

The existing telecom regulations which are in place now are more than two decades old which were obviously formulated for market structures and techniques in those times. They

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not only create regulatory challenges, impose additional costs on consumers & business but also discourage innovation. For an economy that is going digital, they often become ineffective in achieving the socio-economic objectives for which they were designed. Updating regulations needs to happen immediately. The NTP 2018 should definitely consider this.

Today we are witnessing convergence of services and they are driven by new and innovative business models. Internet companies are getting into the domain of TSPs and telecom players are trying to be digital companies with focus on relevant content and digital wallets. Increasingly the lines between e-commerce and communication services are getting blurred. However, all existing policies regulate telecom operators. These should be replaced with digital regulations and have to equally apply on all players offering internet based and communication services. The NTP 2018 should reflect technology changes and the fast emerging digital ecosystem to ensure a level playing field. We do not need a 176 page unified license to govern the ISP. The new age demands transformative thinking. To begin with a license agreement should be called a partnership agreement and should not exceed 10 pages.
