



ITU-APT Foundation of India

Question-wise response of ITU-APT Foundation on TRAI Consultation Paper on Definition of Revenue Base (AGR) for the Reckoning of License Fee and Spectrum Usage Charges

Q1: Is there a need to review/ revise the definition of GR and AGR in the different licences at this stage? Justify with reasons. What definition should be adopted for GR in the Unified Licence in the interest of uniformity?

ITU-APT Foundation Inputs

Yes, we believe that there is a need for review of the present definition of GR and AGR to align with the stated policy of the government and National Telecom Policy (NTP-12).

The Authority has very rightly noted in its consultation paper that there are some very important changes in the present regulatory framework i.e. the introduction of a unified licensing regime and the delinking of spectrum from licenses etc.

Furthermore, The NTP-12 has also envisaged that regulatory levies/taxes may be rationalized to provide a stable fiscal and regulatory regime to stimulate investments and making the services more affordable. Considering the present difficult financial position i.e. heavy debt burden of the telecom industry and to ensure the sustainable growth of the industry, there is a need to align the present definition of GR and AGR with industry requirements.

We believe that under the Unified Licensing regime, the definition of revenue base should be adopted in such a manner which may only considered the revenue realized from subscriber i.e. final products/network services as an end user for the purpose of computation of license fee payable and moreover it will also avoid the multistage license fee on the same service.

It is also suggested that license fee should be levied on Net Gross Revenue (NGR) basis as indicated above and Spectrum Usage Charge (SUC) should be

levied on per Mhz basis. We believe that per MHz basis SUC will increase the level playing field among the wireless service providers and it will also implement the golden regulatory principles i.e. 'Equivalence of Inputs (EoI) and will reduce the present arbitrage available in the SUC levies due to different rates.



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Q2: What should be the guiding principles for designing the framework of the revenue sharing regime? Is the present regime easy to interpret, simple to verify, comprehensive and does it minimize scope for the exercise of discretion by the assessing authority? What other considerations need to be incorporated?

ITU-APT Foundation Inputs

It is suggested that the following guiding principles may be considered for designing the framework of revenue sharing and the revenue share framework should be based on the Government's governance objective i.e. "less Government more Governance":

- i. Only revenue from service under the license to be part of Revenue Base;
- i. Multistage regulatory levies should be eliminated i.e. Inter-Telecom Service Providers (TSPs) transactions should be exempted/deducted for levies the license fee;
- ii. It should be easy to verification;
- iii. There should be transparency and minimum scope for exercise of discretion by the assessing authority; and
- iv. The license fee should be based on actual revenue of the service provider which has received from subscribers without any linkages to the concept of presumptive revenue base/AGR.

We strongly believe that the present AGR regime is not easy to interpret, simple to verify, comprehensive and it does not minimize the scope for the exercise of discretion by the assessing authority. We would like to submit that in the current

AGR regime the issue of interpretation regarding the current definition of GR has resulted in much litigation and it has created uncertainty in the telecom sector.

To overcome the existing problems and achieved the stated objectives of the NTP-12, it is submitted that present regime of regulatory levies on telecom sector may gradually move towards international best practices and only administrative cost should be recovered.

Q3: In the interest of simplicity, verifiability, and ease of administration, should the rate of LF be reviewed instead of changing the definitions of GR and AGR, especially with regard to the component of USO levy?



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ITU-APT Foundation Inputs

It is submitted that the present definition of GR and AGR are very complex due to its variant of interpretations and it has created an uncertainty in the sector, therefore, it cannot be considered as easy to interpret, simple to verify and ease of administration.

However, we strongly support to review the present rate of LF and especially the USO component should be reduced gradually at the level of 0~2% only. As the Authority has already noted that presently, very large amount of USO is laying as unspent. We believe that under the current circumstances, there is no need for creation of such fund when operators are liable to roll out their networks across the country in time bound manner.

- Q4: If the definitions are to be reviewed/ revised, should the revenue base for levy of licence fee and spectrum usage charges include the entire income of the licensee or only income accruing from licenced activities? What are the accounting rules and conventions supporting the inclusion or exclusion of income from activities that may not require licence?**

ITU-APT Foundation Inputs

It is submitted that 'Revenues' for the purpose of 'Revenue Share'/license fee shall mean Revenues from SERVICES i.e. Licensed Activity for the respective Service Area(s) from end user subscribers and shall not include 'Revenues from

SERVICES from other Licensees'. Revenues from USO fund and any other revenues which are not from SERVICES from end Subscribers shall not be deemed to be Revenues for the purpose of 'Revenue Share'.

We believe that generally accepted accounting principles (GAAPs) and industry best practices should be adopted for the purpose of inclusion or exclusion of income from activities which may not require license.



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- Q5: Should LF be levied as a percentage of GR in place of AGR in the interest of simplicity and ease of application? What should be the percentage of LF in such a case?**

ITU-APT Foundation Inputs

As stated above in Q4.

Keeping in mind the international best practices highlighted by the Hon'ble authority in its consultation paper in table 3.2, the rate of License fee should be aligned with accordingly and it should be in line with the NTP-12, which may support the affordability of network services across the country in long term. It is further submitted that the rate of License fee should be arrived in such a manner that it should be "Win-Win Situation" for all stakeholders.

- Q6: Should the revenue base for calculating LF and SUC include 'other operating revenue' and 'other income'? Give reasons.**

ITU-APT Foundation Inputs

No, only revenue realized from subscriber (being an end user of network services/ final products) should be considered for revenue base for calculating LF.

- Q7: Specifically, how should the income earned by TSPs from the following heads be treated? Please give reasons in support of your views.**
- (a) Income from dividend;**
 - (b) Income from interest;**
 - (c) Gains on account of profit on assets and securities;**
 - (d) Income from property rent;**
 - (e) Income from rent/ lease of passive infrastructure (towers, dark fibre, etc.);**
 - (f) Income from sale of equipment including handsets;**
 - (g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc;**

ITU-APT Foundation Inputs

It is submitted that income items (a to g) as stated in the question no. 7 are not revenues accrued/earned from the subscriber and these have nothing to do with telecom license activities, therefore, these should not be considered for computation of license fee.



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- Q8: What categories of revenue/income transactions qualify for inclusion in the revenue base of TSPs on 'net' basis? Please support your view with accounting/ legal rules or conventions.**

ITU-APT Foundation Inputs

The revenue realized from subscriber should only be considered for revenue base. It is also submitted that the revenue should be recognized as per industry best practices and accounting standards issued by the Institute of chartered accounts of India (ICAI) with the consultation of the National Financial Reporting Authority, Ministry of Corporate Affairs.

- Q9: What are the mechanisms available for proper verification from the financial statements of TSPs of items/ income proposed to be excluded from the revenue base, especially for TSPs engaged in multiple businesses? Would new verification mechanisms be required?**

ITU-APT Foundation Inputs

We believe that presently there are sufficient mechanisms available for proper verification from financial statement under the new companies Act, 2013 and the Telecom Regulatory Authority of India, Service Providers (Maintenance of Books of Accounts and other Documents) Rules 2002.

We note that in the present mechanisms, licensees are required to submit license-wise annual audited AGR statements to the Licensor. The said statements are duly audited by Statutory Auditors of the licensee and the details of revenue are provided on quarterly basis, which are duly reconciled with the annual audited accounts of the licensee.

In view of said provisions of the companies Act, **"No"** new mechanism is required.

In case the Government wants to verify the same, trust can be placed on the audited accounts of the TSPs in all such cases. It is submitted that the regime of self-certification and self-assessments should be promoted in line with other Financial laws / Acts e.g. Income Tax, Company Law etc.



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Q10: What is the impact of new and innovative business practices adopted by telecom service providers and licensees on the definition of GR? What impact will exempting other income from the revenue base have on the verification mechanism to be adopted by the licensor?

ITU-APT Foundation Inputs

We submit that perhaps there is no impact of the new and innovative business practices adopted by telecom service providers and licensees on the definition of GR if the definition of GR is clear and easy to interpret.

As indicated in response of question number 9 above. The Exempting “other income” from the revenue base will have no impact on the verification mechanism to be adopted by Licensor. Presently, licensees are required to submit annual audited accounts (license-wise) to licensor, with a Reconciliation-statement duly audited by the Statutory-Auditors of the licensee company and

TSPs are also liable for number of other audits i.e. TRAI’s audit, C&AG’s audit and DoT special audit etc.

Q11: Do the potential benefits accruing to TSPs by moving from a simpler to a more complex definition of the revenue base (providing for additional exclusions) justify the additional costs of strengthening the assessment, accounting and monitoring system? Should the definition of AGR remain unchanged once the revenue base is reduced by providing for additional exclusions from the top line?

ITU-APT Foundation Inputs

Yes. As we have suggested a simplest methodology for estimation of Revenue base i.e. Revenue from end user subscriber, where there would not be any challenges for exclusions / deduction of PTC from GR at all.

Moving from the present GR and AGR regime to revenue base from end users subscribers which are well justified and will also reduce the LF disputes and litigations resulting in faster realization of government dues. It will further provide stability and predictability in the sector



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Q12: Should minimum presumptive AGR be applicable to licensees? How should minimum presumptive AGR be arrived at?

ITU-APT Foundation Inputs

No, there should not be any presumptive AGR on Licensee.

In the present hyper competitive telecom market, where spectrum is not bundled with license and TSPs are required to pay market determined prices the rationale for imposition of levies based on presumptive AGR becomes redundant now, since the licensee has already paid significant amounts upfront and any idling of the spectrum resource would be to the licensee's detriment.

There should not be any presumptive AGR in the telecom sector as the concept itself is contrary to the principles of revenue sharing regime adopted in 1999. Presumptive AGR will entail taking the sector back to the pre 1999 era wherein irrespective of the fact whether service is commenced, revenue is accrued or challenges in roll out or getting statutory permissions a fixed charge was to be paid.

Q13: Should minimum presumptive AGR be made applicable to access licensees only or to all licensees?

ITU-APT Foundation Inputs

As stated above, we do not support any type of presumptive AGR framework for any licensees.

Q14: Should intra circle roaming charges paid to another TSP be treated as a component of PTC? If so, why?

ITU-APT Foundation Inputs

Yes, we note that intra circle roaming (ICR) pass through is presently allowable as deduction under the License Agreement



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Q15: How should the permissible deductions be designed keeping in view future requirements? Specifically, what treatment should be given to charges paid to IP-I providers in the context of the possibility of bringing them under the licensing regime in future?

ITU-APT Foundation Inputs

As suggested, the revenue from end user subscriber shall be considered (Please refer to illustrative format).

We would further like to submit that the tower infrastructure providers (IP-Is) are the registered entities with Department of Telecommunications to provide passive infrastructure like tower, dark fiber, etc to TSPs. These are primarily the inputs service providers to the often competing telecom service providers for provisioning tower infrastructure on a Sharing basis just like any other managed services providers. Towers are used just for increasing the height and reach of the active elements i.e. BTS, transmitter, antenna, etc. and have no active role in their functioning.

Hence, being an input service provider there seems to be no logic to bring IP-Is under licensing and impose any license fee.

Q16: Should the items discussed in paragraph 3.35 be considered as components of PTC and allowed as deduction from GR to arrive at AGR for the purpose of computation of license fee? Please provide an explanation for each item separately.

ITU-APT Foundation Inputs

Since we have recommended a regime where the revenue from the end user subscriber shall only be considered as “revenue base”, therefore, please refer to illustrative format.

Q17: If answer to Q16 above is in the affirmative, please suggest the mechanism/audit trail for verification.

ITU-APT Foundation Inputs

We note that presently licensees submit license-wise audited AGR statement along with details of Revenue, deductions and License-fee, on yearly basis. A reconciliation statement is also submitted, duly audited by statutory auditors of the licensee company, over and above, Licensee are also liable for number of other audits i.e. TRAI’s audit,



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DoT's Special audit and C&AG's audit etc ,therefore, we believe that there is no need for any further mechanism in this regard.

Q18: Is there any other item which can be considered for incorporation as PTC?

ITU-APT Foundation Inputs

Since we have recommended a regime where the revenue from the end user subscriber shall only be considered as "revenue base",therefore, please refer to illustrative format.

Q19: Please suggest the amendments, if any, required in the existing formats of statement of revenue and licence fee to be submitted by service providers.

ITU-APT Foundation Inputs

It is suggested that present format of statement of Revenue and license fee may be modified in such a manner so that it may account for revenue realized from the end user subscriber only; rest revenue shall be considered as a reconciliation items at the end of the financial year. This should be verifiable with audited financial statement of TSPs. Please refer to illustrative format.

Q20: Is there a need to develop one format under unified license for combined reporting of revenue and license fee of all the telecom services or separate reporting for each telecom service as in present license system (as per respective license) should continue? If yes, please provide a template.

ITU-APT Foundation Inputs

We understand that under the current unified license as it still carries service specific distinctions and somehow does not reflect true and complete unification, in such a situation it is very difficult to offer any suggestion on unification of format.

Q21: In case any new items, over and above the existing deductions, are allowed as deduction for the purpose of computation of AGR, please state what should be the verification trail for that and what supporting documents can be accepted as a valid evidence to allow the item as deduction.



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ITU-APT Foundation Inputs

Please refer our response to Q18 above.

Q22: Is there is need for audit of quarterly statement of Revenue and License Fee showing the computation of revenue and licence fee?

ITU-APT Foundation Inputs

No, we believe that there is no need for audit of quarterly statement of Revenue and License Fee, showing the computation of revenue and license-fee.

The present practice of accepting quarterly payments based on self-certification of Revenue& License fee statements may be continued with the requirement of annual audit by the statutory auditors and reconciliation to the audited financial statements.

We note that presently, licensees submit annual audited AGR statements, in which details of revenue and license-fee is provided on quarterly-basis. Keeping in view this system, the audit of quarterly statement of Revenue and License-fee will be a duplication of activity, which will burden the licensees with additional efforts and extra cost.

Q23: If response to Q22 is in the affirmative, should the audit of quarterly statement of Revenue and License Fee be conducted by the statutory auditor appointed under section 139 of Companies Act, 2013 or by an auditor, other than statutory auditor, qualified to act as auditor under section 139 & section 148 of Companies Act, 2013 or by any one of them?

ITU-APT Foundation Inputs

Not applicable in view of the above. However, it is submitted that the revenue statement should be audited by the same person who have audited the financial accounts of the company i.e. statutory auditor under section 139.



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Q24: Is it desirable to introduce deduction of LF at source as far as PTC payable by one TSP/licencee to another are concerned, in the interest of easy verification of deductions?

ITU-APT Foundation Inputs

No, since we have recommended a regime where the revenue from the end user subscriber shall only be considered as “revenue base”, therefore, we do not think the concept of pass through charges (PTC) would be relevant. We believe that the introduction of such system i.e.deduction of LF at source, would further increase the administrative hassles.

Q25: Is there any other issue that has a bearing on the reckoning of GR/ AGR? Give details.

ITU-APT Foundation Inputs

We believe that with the move to a regime where the revenue from the end user subscriber shall only be considered as “revenue base” instead of AGR, it eliminates all interpretational issues for components eligible for exclusion.



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Illustrative format

Format of statement of Revenue and License fee

----- (Name and address of TSP)

Unified License in ----- (Service area)

Statement of Revenue and License fee for quarter ending -----of the FY-----

(Rs in Crore)

SL.No.	Particulars	Amount for the previous quarter	Amount for the current quarter	Cumulative amount upto current quarter
A	Total Revenue from licensed activities			
B	Less: Amount on account of Inter-telecom Service Providers (TSPs) transactions			
C	Net Gross Revenue (NGR) C=A-B			
	Revenue Share @---- of Net Gross Revenue			

Statement of Net Gross Revenue for quarter ending -----of the FY-----

(Rs in Crore)

SL.No.	Particulars	Amount for the previous quarter	Amount for the current quarter	Cumulative amount upto current quarter
A	Revenue from Pre-paid subscribers			
B	Revenue from Post-paid subscribers			
C	Revenue from Value added services			
D	Revenue from wireline subscriber (Post and Pre-paid)			
E	Revenue from Broadband subscribers			
F	Other revenue from licensed activities			
	Total Net gross revenue			