



To,  
**Telecom Regulatory Authority of India**  
Advisor (F&EA-II)  
Mahanagar Doorsanchar Bhawan,  
New Delhi

**Kind Attn: Shri Maruthi P. Tangirala**

Dear Sir,

**Sub: Comments on the consultation paper**  
**Ref: Consultation Paper No. 09/2014 issued by TRAI**

We welcome and thank the Authority for taking initiative in suo motu launching the consultation process on the important issue of Definition of Revenue Base (AGR) for the Reckoning of License Fee and Spectrum Usage Charges vide its Consultation Paper dated 31<sup>st</sup> July, 2014.

We would like to submit our comments as below in reference to consultation paper;

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

#### Our Comments

1. AGR definition was amended after due consideration to possibilities of accounting jugglery. The question of accounting jugglery will arise in case an entity / an organization holds license for more than one services.

The entity / organization who holds license for only one service has been overlooked in the same. E.g. if any organization holds license for Internet services only that too of category B or Category C who is entitled to provide internet services only in particular region, how can there be possibilities of accounting jugglery? Question of accounting jugglery will arise only in case license holder holds license for more than one service.

2. On scrutiny of licenses issued, it is observed that license holder who holds the license for only one service, more particularly ISP Licenses, are small players in the market and levy of LF on pure internet services for them is an undue hardship.

These Small players will not be able to survive in the market and levy of LF will ruin all such small players from the market. Further, in future, it will be difficult for small entrepreneurs to do such business.

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Stand alone Internet Service Provider should not be compared with integrated service provider. There is wide difference between their way of operation and cost of operation. Levy of LF on Stand Alone Internet Service Provider will not lead to the level play.

3. Further, levy of LF on pure ISP will ultimately affect the cost of internet to the end user / end customer i.e. Indian Citizens.

Government is already charging service tax @ 12.36% on internet services and levy of LF shall be considered as additional cost to end user.

End customers should not be levied with the progressive increase of costs of doing business, in the name of protecting government revenues.

4. Considering the National Telecom Policy 2012 and recent speech of our Honorable Prime Minister Shri Narendra Modi on 15<sup>th</sup> August at Red Fort, Delhi regarding digitization, It clearly reflects that Government of India wants to develop Internet Service in India and is ready to take necessary steps to bring internet to Rural India.

I would like to bring to your notice that presently, small players who are providing only ISP services in particular state or city has already established network and they are, in collectively, real service provider / major service provider in Rural India.

We can expect more small players to come into the same business considering the scope of internet service in Rural India in future which will generate employment in the rural India.

Levy of LF on pure internet services will demotivate such small players to come / to do the business of the same and which in turn leads the business in the hands of some of big players only and will be converted to Oligopoly / Monopoly in the market. It will ultimately increases overall internet costing of the end user.

5. Data markets require external incentives for growth. Based on the various analysis by third party, it is suggested that data markets are unlike those for voice, where users need no introduction or persuasion of value. In case of data markets, additional effort and resources are necessary to develop these markets before there can be any expectation of revenues or viability. A minimum prerequisite for this is a speed removal all barriers to growth such as entry and license fees.
6. Levy of LF will be considered as a barriers for ISPs of India when we compare the same with rest of the world;

Most mature regulatory regimes have abolished virtually all entry fees, annual charges, license fees etc. for provision of internet and broadband services. Thus:

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- 26 member countries of the European Union have abolished all entry fees, license fees etc. to provide any telecommunications services including internet and broadband services except the payment for spectrum. There is no formality beyond registration.
- US, Canada, Australia similarly impose no barriers on provision of internet and broadband services by companies willing to enter into commercial arrangements
- Singapore, South Africa, Brazil, Sri Lanka specify criteria for ISPs which are less financially burdensome than in India

**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?**

#### Our Comments

AGR should be charges on license telecom revenue apart LF should not be levied on pure internet service provider (Stand alone service provider)

As per our comments in question no. 1, license fees should not be levied on Internet Service Provider. There should not be undue hardship on ISP players as a reason of easy interpretation, simple verification and comprehensiveness and to minimize scope of exercise of assessing authority.

Further, exclusion of revenue from pure internet services to the licensee who holds license for ISP only will not affect to the

- Easiness of interpretation i.e. it will be easy to interpret. There is exemption to organization or license holders who holds license for pure internet services.
- Easiness of Verification as they are entitled to provide only internet services
- Comprehensive as for pure internet service provider need not to frame different packages / schemes with prime purpose of reducing LF Liability.
- Assessing authority's scope will not be increase due to exclusion of the same. They need to do much verification in case of Licensee who holds only ISP License.

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**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?**

Ans. No, we are of the view that clarity in the definition of GR and AGR would be far more helpful, instead of review of the rate of LF.

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

#### Our Comments

Revenue base for license fees and spectrum charges should include income accruing from licensed activities only.

There is no such specific accounting rules and conventions but we can consider the below mentioned normal accounting principle prevailing in India;

#### Matching concept:

Normally taxes on the income / revenue e.g. VAT, Service Tax, Excise etc. is applicable on the revenue which falls under its category / its definition of levy of tax. To be more precise, VAT is not applicable in case revenue is generated from services.

Further, if we consider all such prevailing taxes viz. VAT, Service Tax, Excise etc. is not applicable on income received from Interest, Dividend, Profit on sale of fixed assets even if the same is generated from the income earned from the revenue which was considered under respective applicable taxes.

Therefore, We submit that License Fee on Revenue Share Basis should be payable only on the Revenues from licensed SERVICE provided under the respective License relating to the respective Service Area only i.e. SERVICE Revenues and following items must not form part of GR:

Profit on sale of any assets, Insurance Claims, Interest income, Dividend Income, Foreign Exchange gain etc.

**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?**

#### Our Comments

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No. We are of the view that LF should not be levied as a percentage of GR in the place of AGR, in the interest of simplicity and ease of application.

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

**Our Comments**

No, Reason is shared in Q4.

**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 fiber, etc.);
- (f) Income from sale of equipment including handsets;
- (g) Other income on account of insurance claims, consultancy fees, foreign exchange gains etc.;

**Our Comments**

TDSAT's Order dated August 30, 2007 on TRAI's Recommendations about the above mentioned income is good to go with. The same is mentioned in Annexure II of Consultation paper no. 09/2014 issued by TRAI

**Q 8: 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.**

Ans: In our view, revenue/income earned from the licensed services only should be considered in the revenue base of TSPs . The telecom licenses are issued under Indian Telegraph Act 1885 for provision of licensed services only, therefore categories of revenue/income earned from licensed telecom service should only be included in the revenue base of TSPs

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**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?**

No Comment

**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?**

No Comment

**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?**

No Comment

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

No

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

No Comment

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

Ans: Yes. In our view intra circle roaming charges paid to another TSP should be treated as a component of PTC, because the same is income/revenue in the hands of other TSP and considered for the computation of AGR.

**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?**

We are of the view that permissible deduction be designed with the view to avoid double levy of licenses fees and exemption to only internet service provide consider undue hardship on them.

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As far as charges paid to IP – 1 is concerned, same needs to be considered as part of PTC.

**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.**

No comments

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

Not Applicable

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

We would like to submit that the revenues derived from pure internet services by the UL-ISP or old ISP Licensees should be considered for incorporation as PTC.

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

No comment, Authority may change the format and may ask for any details in any format after due consideration to the easiness of verification.

**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.**

We would like to submit that there is no need to develop one format under unified license for combined reporting of revenue and license fee.

It would be appropriate that the separate reporting for each telecom service as in the older service specific licensing regime should continue for the new UL also.

Further, there should be exemption to revenue from pure internet services in AGR which was removed by DOT through corrigendum issued on 29<sup>th</sup> August, 2013.

**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.**

No Comments

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

No

**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?**

Not Applicable

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

No Comments

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

No

Considering our above comments, we would like to put forward our humble submission that exemption for revenue from Pure Internet services should be given to the license holder who holds license to provide only internet service while calculating GR / AGR for LF purpose.

Kindly consider our above mentioned comments and awaiting for positive revert from your end.

Thanking You,

**For Ishan Netsol Pvt. Ltd.**

**Purvi Kotecha**  
Director

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