

## Comments on TRAI consultation paper CP\_13012023

Comments by:

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*The comments written below are made in personal capacity. Views expressed are solely on the individual understanding of the commentor and in no way represent the view of the government. It is however, that these comments are made on the basis of knowledge of the commentor gained during the license fee assessment process adopted by the Department of Telecommunications.*

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Q1. Whether the existing definition of Gross Revenue and Adjusted Gross Revenue as prescribed in the extant DTH Guidelines needs any modification? If yes, please provide revised definition of the revenue on which license fee should be applicable. Provide your comments with proper justification.

Comment 1:

Yes.

As highlighted in the consultation paper, the recent amendment in UL agreement adopted by the Department of Telecommunication introduced the concept of ApGR (Applicable Gross Revenue) for the calculation of license fee. While it is duly acknowledged that the statement of revenue and applicability of “pass through charges” differs among telecom operators and broadcasting operators, however, as the boundaries between telecom and television broadcasting blurs, with increasing number of operators holding licenses from both the categories, a similarity in licensing regime may be preferable. It is also to highlight that in case of holding multiple licenses from both the departments, it becomes increasingly difficult for the operators to comply, with complexities in each individual licenses.

It is therefore proposed that a uniform license regime, i.e., 8% of ApGR as adopted in case of Department of Telecommunication, may be considered for broadcasting license with the ‘non-allowance’ of deduction which are not applicable for broadcasting licenses, such as “pass through charges”. Such practice already exists in certain DOT licenses such as “roaming charges for Internet Service Providers”, wherein, any deduction claimed under the mentioned head is disallowed by the department.

It is also highlighted that a handholding of license fee assessment in MIB may be provided by DOT revenue assessment wing or officers engaged in revenue assessment may be deputed to MIB, in order to streamline and transfer procedural understanding of the revenue assessment on ApGR.

Q2. Is there a need to exclude certain revenue components from the definition of Gross Revenue in the DTH Guidelines? If yes, what income heads should be excluded from Gross Revenue to arrive at

Adjusted Gross Revenue? What mechanism should be adopted to ensure that the revenue excluded reflect true value, without compromising the revenue streams that entail payment of license fee?

Comment 2:

Yes.

As highlighted in comment 1, ApGR may be introduced for MIB licenses to promote uniformity in licensing regime. 'Statement of Revenue' format may be made similar as in case of DOT UL license regime, with disallowance of claimed deduction in specific heads wherever the TRAI and MIB deems fit. Such disallowance will rule out the question of allowance of "pass through charges" as highlighted in the consultation paper. It is thus that the income heads to be excluded from Gross Revenue may remain same, with certain exemption, as in the case of ApGR adopted by Department of Telecommunication.

To ascertain any check in the revenue exemption, officers engaged in assessment of revenue for Department of Telecommunication, may be deputed to MIB to establish the deduction verification process as adopted by Government of India in DOT. The expertise of Deduction verification process of DOT discussed herein, which has been matured and has seen the test of time, may be utilized by MIB to prevent any loss to government exchequer.

Q4. What method of verification should be adopted by the licensor to verify the deductions claimed, if any, for the purpose of calculation of the license fee payable by the DTH operators?

Comment 4:

DOT has an established and rich deduction verification process, wherein, the transaction vouchers-both inter and intra companies, are duly verified through multiple level of authorities. DOT has further digitized this deduction verification process through its SARAS digital solution. SARAS may therefore be utilized, after modifications as necessary, for the deduction verification of MIB licenses. Expertise and standardization of the deduction verification process can thus be achieved through:

1. Adoption of SARAS digital solution
2. Deputation of DOT revenue assessment human resource into MIB to establish deduction verification process

It is quintessential to highlight here, that as much as possible, such deduction verification process should be thoroughly conducted by officials of Government of India, rather than hired or contractual resources to ensure integrity of the process.

Q5. Alternatively, should the license fee be levied on Gross Revenue in place of Adjusted Gross Revenue, or any other base be used? If yes, what should be the percentage/quantum of such base? Please support your response with proper reasoning.

Comment 5:

Percentage of levy may remain same i.e., 8% of ApGR, however with the allowance of deduction as applicable by the orders of the ministry from time to time.

Q7. Whether the amendments made by DoT in Unified License Agreement w.r.t. rationalization of Bank Guarantees should be extended for existing DTH licensees also? If yes, what should be the percentage of License Fee for the two quarters to be submitted as Bank Guarantee to the licensor?

Comment 7: As highlighted in these comments, to introduce uniformity, it may be considered that the “Rationalisation of Bank Guarantees” may be adopted by MIB licensees. However, such rationalisation may be strictly restricted to fulfilment of conditions as adopted by DOT, such as:

1. Submission of license fee
2. Submission of documents/records as mandated by the license agreement
3. Bank Guarantee should not occur due to any litigation
4. Licensee should not be under the process of termination/surrender

The bank guarantee may thus be rationalised to 20% of Avg. Revenue of last 4 quarters x 2.

Q8. Whether any alternate method should be adopted instead of Bank Guarantee for securitizing license fee and ensuring compliance of the DTH license conditions. If yes, please specify the details thereof.

Comment 8:

May be considered for bank guarantees where calculated requirement falls below ₹10,000. Alternative instruments for securitization such as cash security may be submitted to the department.