

## Counter Comments

### CP 21082020 Unbundling<sup>1,2,3,4</sup>

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#### Introduction:

There are many keywords in the CP narration but central pivotal word is "Ease of doing business".

2. For achieving the goal given in "Para '1'" above the CP the key word is "Unbundling of Different Layers".

3. Regarding "'2'" above the NDCP 2018 inter-alia has recommended "Enabling unbundling of different layers (e.g. infrastructure, network, services and applications layer) through differential licensing"<sup>8</sup>.

4. Regulatory Certainty is a desirable feature for attracting investments. But Regulatory/Statutory Shocks cannot be ruled out as recently clause inserted in Allocation of Business Rules for I & B Ministry GoI shows. The same is reproduced below:

#### V A. DIGITAL/ONLINE MEDIA:<sup>7</sup>

**22A.** Films and Audio-Visual programmes made available by online content providers.

**22B.** News and current affairs content on online platforms.

(Inserted vide Amendment series no. 357 dated 9.11.2020).

## Q. & Ans.

**Q1. Do you agree that in order to attract investment and strengthen the service delivery segment, Network services layer and Service delivery layer needs to be separated by introducing specific license for Network Layer alone? Please justify your answer.**

**Ans.1.** No comments. Kindly refer Ans.5.

**Q.2. Should the Network Services Layer licensee be permitted to take the Service Delivery Category licenses and provide the service? If yes, what kind of restrictions and safeguards are required to be built, in order to protect the competition and innovation in service delivery segment? Please justify your answer.**

**Ans.2.** No comments. Kindly refer Ans5.

**Q3. Whether certain obligations should be imposed on the existing Unified Licensees, and other measures should be taken to encourage UL licensees to provide their network resources to VNO licensees particularly in mobile service segment? Please suggest the measures in detail.**

**3.Ans.3.** No comments. Kindly refer Ans.5.

**Q4. In case network layer and service delivery layer are separated by creating separate category of licenses, as proposed in Q1;**

**Ans.4.** No comments. Kindly refer Ans.5.

- a) What should be the scope for Network layer license and Service Category licenses?
- b) Out of various responsibilities and obligations enumerated in Unified License, what should be the respective responsibilities and obligations of Network layer licensees and Service delivery category licensees? Please elaborate with justifications.
- c) What mechanism should be put in place to regulate the access to network services of Network layer licensees by the service delivery Category licensees? Whether certain obligations should be imposed on Network layer licensees to provide the network resources in a time-bound, transparent and non-discriminatory manner?
- d) What incentives (for example, lower license fee, lower SUC, etc.) could be provided to Network Layer licensees in the new unbundled licensing regime to encourage the investment in the Network layer? Please justify your answer.
- e) Whether the existing Unified Licensees should be mandated to migrate to the unbundled licensing regime, or the new regime should be introduced, while keeping the existing regime continued for existing licensees till the validity of their license, with an option of migration? f) Whether existing VNO licensees be mandated to migrate to service delivery category licenses as per unbundled licensing regime? g) Whether service delivery category licensees be permitted to parent with multiple Network Service layer licensees? Please justify your answer.

**Q5. Any other issue related to the subject may be raised with suitable explanation and justification.**

**Ans.5.** Keeping in view the observation made in the Introduction the following is for consideration:

The current licensing framework regime supports the layered approach w.r.t Infrastructure, Service and Applications as is evident from;

(I)Licensing Framework for Telecom: A Historical Overview <sup>5</sup>.

(II)The views of one TSP regarding layered approach put succinctly are:

Telecommunications services in India have taken significant strides since the same were opened for private players way back in 1994. The last 25 years have seen several changes with:

- Licenses moving from fixed license fee regime to a revenue sharing regime in 1999.
- Unified Access Service (UAS) License was introduced, and the Cellular Mobile Telephony Service/ Basic Service Operator Licensees were given the option to migrate to UAS License in 2004-05.
- Enhancement to the licensing regime was brought by way of allowing dual technology in 2007-08.
- Delinking of the spectrum from the license in 2012 and allocation of access spectrum via spectrum auction
- Introduction of Unified License in 2013 wherein different licenses existent have been added as different authorizations under the Unified License (**Source Airtel**).

2.A number of networks have been discussed in CP. But India cannot adopt any one of them by cut and paste method. Every network has evolved uniquely as per their own Regulatory Framework. However, some inputs could be picked up suiting to conditions available in INDIA with an eye on NGN especially w.r.t NGA (New Generation Access Network). The access network is still not world class at present may be barring some pockets.

3.The ultimate objective of telecom network is to provide end product to the customer compatible with CPE. The subparts of the network which are suitable for bringing competition to promote business entities will not only fragment the network resulting in

(I) Increase of interfaces between product components

(II) But also Extra burden on incumbent players who are already under financial stress and already have tremendous RoI problems further resulting in delay in due outflows for example AGR, SUC charges and always a cry in some for tweaking agreed licensed conditions. AGR is a classic case regarding this. AGR case dragged on for almost two decades' litigation.

## Conclusion

The subparts of the present Telecom Network may be chosen for competition after due diligence. **Vague regulatory mandate can systematically lead to overregulation. In CP nowhere there is no mention of benefits accruing to the customer/evolution of network of all the proposed effort except leading to a few issues briefly in Ans.5. paras 3 (I) & (II) above.**

2. Telecommunications networks can, broadly speaking, be divided into access and core networks accordingly subparts of core networks and access network amenable to competition subject to a few issues outlined **briefly in Ans.5. paras 3 (I) & (II) above may be so chosen instead of layers as proposed in NDCP-2018.**

3.CPE may be delinked from service provider both in Telecom domain & Broadcast Domain (DTH, Cable TV)

3.Any new regulation should ensure that access network evolves to NGA as a component of NGN.

4.Alternatives of CABLE TV, copper pair, optical fibre, ducts, Satellite etc may be the part of any new regulations where possible to optimally utilise the available resources irrespective the creator in Core Network/Access Network domain as they are National Resources.

5.As we are discussing unbundling JIO has already bundled Mobile handset with some services. This is not a fair practice as it impinges on now well-known doctrine of "Level Playing Field". This needs to be remedied by regulatory/statutory provisions.

6.The scope of VNO category of license should, nay, not be enhanced to attract investment in VNO. If they find the service operation not profitable, they better pack up.

7.The scope of IP1 catering to infrastructure may be rejigged if needed to cater to infrastructure sub part/sub parts amenable to competition confined to the vertical network partitioning into core networks and access networks. Ref<sup>6</sup> may be revisited accordingly.

8.The possibility of statutory change similar to the one mentioned at '4' of introduction can happen for Telecom Network also. The future ready networks should be ready to absorb such changes from operation & provision domains also.

## REFERENCES

1. [https://www.trai.gov.in/sites/default/files/PR\\_No.59of2020.pdf](https://www.trai.gov.in/sites/default/files/PR_No.59of2020.pdf)
2. [https://www.trai.gov.in/sites/default/files/Consultation\\_Paper\\_20082020.pdf](https://www.trai.gov.in/sites/default/files/Consultation_Paper_20082020.pdf)
3. [https://www.trai.gov.in/sites/default/files/PR\\_No.66of2020.pdf](https://www.trai.gov.in/sites/default/files/PR_No.66of2020.pdf)
4. [https://www.trai.gov.in/sites/default/files/PR\\_No.85of2020\\_0.pdf](https://www.trai.gov.in/sites/default/files/PR_No.85of2020_0.pdf)
5. <https://cis-india.org/telecom/resources/licensing-framework-for-telecom>
6. [https://traf.gov.in/sites/default/files/Recommendations\\_13032020.pdf](https://traf.gov.in/sites/default/files/Recommendations_13032020.pdf)
7. [https://cabsec.gov.in/writereaddata/allocationbusinessrule/completeaobrules/english/1\\_Upload\\_2603.pdf](https://cabsec.gov.in/writereaddata/allocationbusinessrule/completeaobrules/english/1_Upload_2603.pdf)

