

# Response to Consultation Paper

on

Definition of AGR for the Reckoning of License  
Fee and Spectrum Usage Charges

*Submitted by:*

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**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?**

**Response**

The existing definition of Gross Revenue as defined by DoT includes “*all revenues accruing to the licensee company without any set-off for related items of expense and the AGR is arrived at after deducting*

- *the PSTN-related call charges actually paid to other TSPs within India*
- *roaming revenues actually passed on to other TSPs where applicable*
- *service tax and sales tax actually paid to Government”*

We are of the view that the existing definition of GR needs to be revisited on account of the following reasons:

**Evolution of the industry**

It is worthwhile to note that the definition adopted by DoT dates back to 1999 when the telecom industry was just opened up to private players. The telecom market was largely untapped and hence the revenues realized by the Government were also low.

After a decade and half of growth witnessed in the industry and substantial changes in the technology ecosystem, there is a definite case for review of the definition of GR and AGR.

**Introduction of Unified Licensing Regime**

The introduction of Unified License regime envisages bringing different set of telecom services under one umbrella with a uniform license fee of 8%. This has removed the scope of arbitrage that the TSPs may take advantage of by under-reporting revenues in segments with higher license fee and shifting them to segments with lower license fee.

However, the different service segments are guided by different set of definitions of GR and AGR which needs a revisit, to justify the true essence of a unified license wherein TSPs would have the flexibility to provide any service through their network while being guided by a single set of guidelines regarding infrastructure, operations and revenue recognition.

**Multiple Revenue Sources**

The telecom industry is highly technology-driven where-in adoption of new technology completely overhauls the ecosystem. TSPs started as pure-play voice service providers in the initial period but with the uptake of 2G and 3G services, now data revenue constitutes a substantial portion of the revenue base.

Companies are expanding to be present in the entire value chain starting from content creation to last-mile service delivery to the customer. With the adoption of 4G and LTE services in the future, it

will become further difficult to segregate the revenue service-wise (voice, data, bundled services etc.).

In the interest of uniformity, the definition of GR should include all the revenue generated by way of providing service as mandated under the unified license such as access service, internet service, NLD and ILD services, VSAT services etc.

**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?**

**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?**

Response:

Post cancellation of telecom licenses by the Hon'ble Supreme Court, the industry is in a phase where pricing power is returning to the telecom operators and there is a renewed positive sentiment about the sector. This has reflected in the increase in ARPU over the past few quarters and is expected to continue in future with more focus on data-driven service offerings and affordability of smartphones.

On the regulatory front, the Authority has released guidelines for mergers and acquisitions and spectrum sharing (awaiting final approval by the DoT) and there is clarity emerging on the spectrum auction philosophy adopted by the Government which intend to address the long-standing demand of TSPs for more spectrum availability.

These recent market and regularity developments augur well for the industry which could lead to a sustained growth in revenues in the years ahead.

Also, as per information provided in the consultation paper, the Gross Revenue of the industry has increased at a CAGR of 10.4% from 2008 to 2014. Over the same period, the License Fee has increased at a CAGR of 6.9%, even though the fee as a percentage of GR has decreased from 15% in 1999 to 8% w.e.f. April 2013. Thus, the License fee receipts for the Government have largely kept pace with the increase in revenues for the industry.

Hence, there is a scope to reduce the rate of LF especially with regard to the component of USO levy which is 5% of GR at present. The purpose of USO levy was to improve connectivity in rural areas where the level of penetration was very low and it was commercially unviable for private operators to reach those areas.

Since its inception in 2002-03, Government has collected Rs. 58,579.34 crore towards USO fund. However, only Rs. 17,947.85 crore has been disbursed apart from Rs. 6,948.64 crore reimbursed to BSNL as License Fee and Spectrum Charges.

Moreover, as suggested in industry reports, the levy of 5% is only next to Malaysia (6%) among the developing nations while the utilisation level is close to 40% which is way below the average global benchmark of 80%.

In view of the same, we are of the view that the authorities may consider a reduction in the license fee by reducing the USO levy in a phased manner from 5% to 2%.

**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?**

**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?**

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

**Q7. Specifically, how should the income earned by TSPs from the following heads be treated? Please give reasons in support of your views.**

- Income from dividend
- Income from interest
- Gain on account of profit on assets and securities
- Income from property rent
- Income from rent/ lease of passive infrastructure (towers, dark fibre, etc.)
- Income from sale of equipment including handsets
- Other income on account of insurance claims, consultancy fees, foreign exchange gains etc.

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

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

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

**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?**

**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.**

- Leased Line/bandwidth Charges
- Port Charges
- Cable Landing Station Charges

- **Sharing of Infrastructure Service**
- **Interconnection Set-Up Costs**
- **Roaming Signalling Charges**
- **Receipts from USO Fund**

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

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

**Response:**

We are of the view that the current practice of License Fee as a percentage of AGR should continue; however, the definition of GR needs to be revisited to include only the revenues accruing or related to licensed activity and exclude the revenues from non-licensed activities from being considered as a part of GR.

In this regard, our perspective on treatment of various revenue items is based upon the following considerations:

1. We are of the view that in case of an operating cost item incurred by a TSP results in a revenue item recognized by another unified licensee, and if the other unified licensee is being charged a license fee on that revenue; then the operating cost in question (incurred by the TSP), should be allowed to be deducted for the calculation of AGR and subsequent levy of license fee.
2. Any revenue accruing to the TSP which doesn't require an exclusive telecom license but is related to the telecom business e.g. sale of handsets, simcards and telecom equipment, IP-I infrastructure, interest of refundable deposit could be treated as a part of GR for levy of license fee.
3. Other revenue items which don't require a telecom license or aren't related to telecom business e.g. interest income from deposits, dividend income, capital gain on account of sale of assets and securities etc. may not be considered as a part of GR for levy of license fee.

Further, we would like to mention our views on the treatment of the following items:

**Income from sale of equipment including handsets**

We are concomitant with the Authority's view that sale of discernible and standalone telecom equipment is not a licensed activity and hence the revenue accruing thereof may not be considered as a part of AGR.

However, in case of a bundled service offering (which should be included as a part of GR as recommended by TRAI) wherein handsets are sold at subsidized rates to lock-in customers for a certain period of time, the minimum verifiable cost of handset incurred by the TSP may be excluded from the GR calculation.

### Treatment of IP-I Providers

At present, the revenues earned by the IP-I providers isn't treated as a licensed activity, hence no license fee is levied on such revenues, while the TSPs availing the services of the IP-I providers treat the expense as a part of their operating cost.

The impact of bringing IP-I providers under the ambit of licensing regime can be illustrated by a hypothetical example as follows:

Consider two operators A and B providing telecom service under the unified licensing regime. Operator A has its own IP-I infrastructure while Operator B has outsourced its IP-I infrastructure to another company M. With introduction of licensing regime for IP-I providers, the income generated by M will be subjected to a license fee.

Since IP-I service providers operate under a restricted business model with TSPs their major source of revenue, it is quite likely that the additional license fee incurred by the company M will be passed on to operator B which will increase its operating cost and adversely affect the profitability. In a highly competitive telecom industry, this may result in operator A having a significant business advantage over B. Consequently, operator B may decide to build its own IP-I infrastructure in lieu of the additional cost incurred which will lead to company M losing its business as an independent IP-I service provider.

The actual telecom business environment and its interdependency with the IP-I providers may pose further complexities. Hence we are of the opinion that if IP-I providers are brought under the licensing regime, then the cost incurred by the TSPs (which in turn appears as revenue for the IP-I providers) should be treated as a pass-through item in the calculation of AGR for the TSPs.

### Intra-Circle Roaming

We concur with the view of the Authority that intra-circle roaming arrangement for a TSP is a cost-benefit analysis of building its own network vis-à-vis using other's network for a recurring cost.

As outlined earlier, we are of the view that since intra-circle roaming results in revenue recognition by the TSP who is the provider/seller of minutes and the TSP subsequently gets charged a license fee on these revenues, the TSP who is the buyer of minutes may be allowed the dispensation of deducting the ICR costs from its AGR calculations.