

VIL Response to the TRAI Consultation Paper on “Enabling Unbundling of Different Layers through Differential Licensing” released on August 20, 2020

- 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.**
- Q2. 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.**

VIL Response:

- At the outset it is submitted that such unbundling is neither necessary nor desirable. On the contrary, there is no requirement to create separate category of licenses to separate network and service delivery layers as the present licensing structure already supports a layered approach while also accounting for the convergence of technologies taking place globally – such unbundling is actually a step in the opposite direction. . For example, the recently introduced UL (VNO) License (Aug 2018) already accounts for the standalone service delivery framework in telecom services and lays down the detailed architecture and terms and conditions required for operating under such a model.
- The current licensing framework is designed to deliver innovative service offerings and any proposed intervention to include additional layers to the current licensing regime would lead to making the entire licensing framework complex and cumbersome.
- The operators have made huge investments over the last few years in setting up networks based on the existing licensing regime. These investments have factored in a certain licensing regime that has required a particular architecture mandated by the license conditions and accordingly networks were built, configured and other critical investments made keeping in mind the same.
- The networks follow a particular gestating life cycle and when existing investments are not already fully recovered, ushering in such changes which require business models to be re-configured would be counter-productive.
- Any proposal to implement layered licensing regime will go against the time tested principle of offering regulatory stability and certainty to attract new investments and build investor confidence. In the past we have seen how introduction of new licenses and opening of telecom sector to attract new investments without giving due consideration to the long term effects of undertaking such an exercise resulted in hyper competition and led to sustained financial stress for the entire telecom industry.
- It is widely acknowledged that frequent and disruptive changes in licensing regime deter rather than attract investments and the Authority needs to appreciate that only 2 years back, the Unified Licensing Regime for VNO Licenses has been introduced after long deliberations. To now propose changes in that regime so early is extremely risky and fraught with numerous complexities.

- Separation of services by way of introducing separate licenses would not attract any new investments and there appears no scope for the interplay of additional players in both the spaces. In fact, the existing service providers have already aggressively invested in expanding their Network & Services presence over the last decade.
- The lack of investments in the sector is and cannot be attributed to the current construct of the licensing regime or licensing framework. It is so due to the severe financial stress that is gripping the sector. The reasons for this financial stress are well known and several of these have been recognized in the NDCP as well. The prices today are below cost and there is an urgent need to increase revenues of the industry.
- There is a need to therefore address the underlying issue of poor financial health rather than recommend /implement yet another licensing framework that will in fact, as already submitted above, create ambiguity and additional challenges, which are likely to further deter investments from flowing into the sector.
- There is an urgent need to address the core issue of high regulatory levies, need for floor pricing or adopting the principles of input line credit to avoid double taxation.
- On the specific question regarding whether the Network Service layer licensee should be permitted to take the Service Deliver Category license, it is submitted that the existing Unified License regime should be continued, since the existing UL holder already gets the option to provide both the services under its setup, and there is no need to create any other regime for the same. For those wanting to persevere with the services layer only, the option is already available under the VNO License.

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.

VIL Response:

- NSO-VNO relationship has to be based on mutual agreement and there should be no mandate
- Given the low tariffs prevailing in the market, there may not be any scope for business cases as of now for VNO or NSO. If the industry revenues do not increase any such mandate of unbundling is issued then that will be a deterrent for investments in the networks.
- The tariff review exercise initiated by TRAI in December 2019 needs to be urgently completed.
- Reasonable margin on services basis the ask would also kick-start the VNO segment
- Under the current situation and at the current tariffs, the Government can encourage UL license holder to on board VNO's through excluding / reducing the license fee applicable on the revenue earned by sharing network resources with VNOs.

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

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?**

VIL Response:

- As already submitted, there is no need to create separate category of licenses to separate network and service delivery layers as the present licensing structure already supports such a layered approach. The existing VNO License already takes into account the service layer required to create a service-centric model.
- Any such unbundling will be at the cost of risking the current investments made by TSPs.
- However, if such unbundling is to be considered, then the scope for network and service layer can be:
 - The service delivery framework has already been laid down in the VNO regime which has been introduced only recently, where Terms and conditions for the arrangements between the NSO & VNO have already been provided to be on mutually agreed terms
 - The Network Services Providers (NSPs) layer should comprise of the physical infrastructure, active and passive elements and cloud-based instances of the network elements that are required to deploy a telecom network including all other network elements which are not part of the scope of the existing VNO License.
- On the specific issue of imposing certain obligations on Network layer licensees to provide the network resources in a time-bound, transparent and non-discriminatory manner, it is submitted that the VNO Guidelines do not provide **for** any mandate to an NSO for providing time bound access to its VNO; rather, it has been left to the mutual agreement between NSO and VNO and the DoT/TRAI have right to intervene in the matter as and when required to protect the interest of consumers and telecom sector. The same time-tested provision needs to be pursued with even in case a new licensing regime is put in place.

Q5. 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.

VIL Response:

- Regulatory Levies need to be brought down to nominal levels (LF and SUC at a composite 1%) in the existing licencing framework itself. Such a change, if introduced, would itself result in making available huge finances for the existing TSPs to make investments in networks and services alike.

- The uniform license fee was introduced across licenses for ease of administration, prevention of arbitrage and level playing field for all. Reintroduction of differential rates for different licenses would once again bring back the complexities and challenges that were faced in the earlier regime, and negate the changes that were introduced to address such issues.

Q6. 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?

VIL Response:

- In any shift in the licensing regime, the choice to migrate has to always be an option & not a mandate. This has been the approach followed so far and the same should be continued with
- Thus the existing licensees must have the option to continue under the existing licensing regime or migrate to new Regime and the fundamental Principles of “level playing field” and “No worse-off” must be adopted.

Q7. Whether existing VNO licensees be mandated to migrate to service delivery category licenses as per unbundled licensing regime?

VIL Response:

- VNO is a service category license
- Regulatory predictability & certainty is the cornerstone for attracting investments into this highly capital intensive sector
- Convergence of technologies and the need to ensure their seamless delivery has been the basis for introduction of the Unified licensing regime – unbundling is a step in the opposite direction
- Harmonization of policies has already been implemented under UL and is also an ongoing phenomenon - which allows the licensees to choose within the existing framework. The only logical next step should be to make the regime future fit & light touch
- As already submitted above, in case of any shift in licensing regime, the choice to migrate must always be an option & not a mandate. This has been the approach followed so far and the same should be continued with.

Q8. Whether service delivery category licensees be permitted to parent with multiple Network Service layer licensees? Please justify your answer.

VIL Response:

- VNO is a service delivery license

- TRAI had earlier recommended one parent NSO (access) per VNO & the same was implemented under the VNO License.
- The Authority would need to re-assess the reasons why it had earlier come out with this recommendation & if the rationale still holds, then there is no reason to change this position.
- The main difference between the present VNO and the 'Service category license' being considered is the nature of relationship with the Network Service Providers. The mandate for relationship in later case as against the mutual agreement in the present framework will be major change and in our view it will severally impact the business models and investments in the networks at all levels considering the present financial state of the industry. The financial state of industry is foremost criteria for any such discussion and the same cannot be overlooked.
- Further, the underlying issue is of mandate vs mutual agreement and for any change, which in our view is not needed, the whole regime of licensing framework cannot be changed.

Q9. Any other issue related to the subject may be raised with suitable explanation and justification.

VIL Response:

- The importance of telecom for the Indian economy to drive objectives of a "Digital India" and "Atma Nirbhar Bharat" requires that the sector, which has built the infrastructure, is given consideration and the current situation is alarming for most such players. Accordingly, the need of the hour is to address the core issues plaguing the telecom Industry and not usher changes in the licensing regime that will increase uncertainties that the sector is already grappling with.
- Accordingly, we would request the Authority that while deliberating the issue, the Authority should consider the large investments made by the existing operators in the last 10 years, which are yet to start yielding any significant returns and thus need to be protected.
- Further, we would also urge the Authority that in case any significant changes are proposed to be made in existing license policy, then a clear compensation methodology should also be enumerated, especially for investments made in last 10 years.
