Vodafone Response to TRAI's Consultation Paper on Definition of Revenue Base (AGR) for the Reckoning of License Fee and Spectrum Usage Charges dated 31 July 2014

I. INTRODUCTION

Vodafone India welcomes the consultation initiated by the Authority on "Definition of Revenue Base [AGR] for the reckoning of License Fee [LF] and Spectrum Usage Charges [SUC] as we believe that the review of this issue is imperative given the fast paced changes that are taking place in the telecom sector as also the significant developments that have taken place of the last few years. We believe that the current system stifles and impedes innovation and stifles growth of the sector.

We believe that a future fit approach for charging of license fees and spectrum usage charges is imperative to meet the requirements of the evolving telecom landscape of unified licensing, convergence, delinking of spectrum and license, allocation of spectrum through auctions, etc. as also prevent future controversies and disputes which have embroiled the telecom sector for the last over ten years.

The Authority has also recognized many of the above imperatives and has acknowledged the need for "*a regulatory re-appraisal of the philosophy underlying the definition of AGR and an assessment of whether the existing definitions meet the requirements for orderly growth of the telecom sector.*"

We fully agree that going forward, the entire approach to definition of AGR needs to be reassessed and a completely fresh approach is required that will be future-fit, simple, transparent, non-controversial and protects the revenues of the Government.

In this regard, we broadly agree with the proposal by COAI as an option, which is as follows:

a) Gross Revenue should be only from licenced activities.
b) GR should be explicitly defined to exclude the "Negative list" of revenue/income/gain listed specifically in Exhibit I in submission made by COAI.
c) For avoidance of double levy, the above GR (after considering a. and b. above) should be adjusted by all pass through charges payable by one TSP to another and pass through charges for inter operator termination costs and roaming charges paid to international operators.
d) Subsequently credit shall be allowed for LfDS paid by the TSP for its expenses payable to other TSPs [This would be GR for the other TSP].
e) For administrative convenience, and to avoid the arduous mechanism of verification/validation of the credit adjustment, use the principle of Licence fee Deduction at Source (LfDS) and with payment details to be posted in a central repository portal like the NSDL (similar to TDS as adopted by the Income-tax department).
f) Adjustment for credit as discussed in d above, would only be eligible on payment of LfDS and to international telecom operators; as discussed in e. above.
g) The above administration (filing of returns, payment of licence fees and the submission of proof of payments) done centrally shall bring in uniformity of the proceedings across the service area.

h) Setting up rules for assessment proceedings in line with other financial Acts and define the governance process.

In addition to the above, **we would also like to suggest an alternate approach, viz. only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees or revenue services to end users which do not require license should not form part of Revenue Base.**

The above suggested approach is a further simplification, inasmuch as inter se licensee transactions, which are ultimately netted off, are excluded from the purview of the Revenue Base. Our detailed submissions on the proposed alternate approach are given herein below.

We respectfully submit that since the matter of interpretation of definition of GR and AGR under UASL/NLD and ILD is sub-judice and is before the Hon'ble TDSAT, our response to this consultation is 'without prejudice' to our rights and contentions in the ongoing litigations.

II. BACKGROUND & PRELIMINARY SUBMISSIONS:

Before we respond to the specific issues raised by the Authority, we would like to provide a background of our current position **on Interpretation of GR under License Agreement** and **our** suggested approach on the issue of Revenue Share Payments. The responses to the questions in the consultation paper are premised on this background.

Section A: Current Position on Interpretation of GR under License Agreement – Revenue Share only on SERVICE Revenue for the respective Service Area

A.1. The Authority has rightly noted the long pendency of the disputes related to AGR, including the fact disputes are still pending before the Hon'ble TDSAT as also before various High Courts.

A.2. It is respectfully submitted that the Hon'ble Supreme Court's Judgment of 11 October .2011 primarily deals with "questioning the validity of definition of AGR" and jurisdictional aspects. The Apex Court has neither considered nor decided the 'interpretation' of AGR or other provisions of the Licence, which matters are presently sub judice before the Hon'ble TDSAT.

A.3. In fact, it may not be out of place to point out that as many as around forty challenges have been filed by Vodafone and its Group companies. These disputes are primarily related to :

a. Interpretation of the definition of AGR under License
   - Wrongful inclusion of revenues that accrue at the company/corporate level

- Inclusion of items that are not related to the service
- Inclusion of items that are not of a revenue nature

b. Wrongful disallowance of deductions claimed by the Licensee

A.4. As stated above the interpretation of current definition of GR under the License Agreement is presently sub-judice before the Hon'ble TDSAT. However, for sake of transparency and completeness, we would like to explain our position and give our reasons with regard to our interpretation of AGR under license, which are as follows:

A.5. The first question that arises is 'What is the applicable base for the definition of GR in all Licenses?'

At the outset, we submit that, on reading various clauses of existing license agreements, it is evident that the Gross Revenues (GR) under the License only relate to the Revenues from respective Licensed Activity (i.e. SERVICE, as defined in the respective License) in respect of the corresponding Service Area for which the License has been issued.

It is further submitted that a plain reading of the terms of individual License Agreements and also on comparing the definitions under different types of License Agreements [extracted by the Authority in Annexure-I of the Consultation Paper], **the GR, in each type of License, cannot be given a meaning that it pertains to Revenues of the Company or Revenues from all Telecom Activities of the Company.**

A.6. The Authority will note that the items of revenues included in the Definitions of GR in different Licenses have a clear co-relation to the type of SERVICE under the License. The items of revenue are clearly referable to the service under the License and not the revenues of the Company or non-service revenues. If it was the intention of the Licensor to include all such revenues, then there was no need to have different definitions in different types of Licenses. A simple definition like 'GR will mean all revenues of the Company' would have sufficed in all licenses. We believe that even the Licensor is not taking such an incongruous view.

A.7. Such a sweeping definition, would lead to absurd results. To illustrate, all CMTS/UASL/ULs today are Service Area specific. There are 22 Service Areas in India. Assuming that a Company holds all 22 UASLs, if 8% license fee was to be levied on the revenues of the "Company" it will lead to an absurd result i.e. the Company will have to pay 22 Licenses x 8% of Revenues of Company =176% of the Revenues of the Company as Revenue Share to Licensor. That could neither have been the intention of Licensor/Policy Makers nor it is mentioned so in the License Agreements, nor is the above absurd interpretation being applied. This clearly shows that items of revenue accruing at the corporate/company level are not part of the service

related revenues under license, and it is only service related revenues under license that form part of the GR.

A.8. The fact that the GR can only pertain to service related revenues under the license and not the revenues of the company, is further supported by the fact that historically:

a. Till recently, each type of License had different Revenue Share percentage (Like ISPs were 0%, NLD/ILD were at 6% whereas a Metro UASL/CMTS were at 10%);
b. Within access also, each UASL/CMTS had different Revenue Share Basis depending on Metro or Category A or Category B or Category C Service Area; and
c. Each UASL/CMTS had different SUC rates and Microwave charges [MW] rates depending upon the quantum of spectrum / MW holdings under the licensee.

A.9. Furthermore, there is no clause in the License Agreement that provides that the Licensor will charge license fee on 'non service area/corporate related revenues or on non-SERVICE Revenues or on items of capital nature'.

A.10. There is also no clause in the License Agreement that provides for any apportionment of non-service area/corporate related revenues amongst different Licenses for the purpose of License Fee, thus evidencing that these were not to be even included in the first place. If it was the intention of the Licensor to charge License Fee on such 'non service area/corporate related revenues, there would have been a specific clause clearly mentioning that such revenues were to be included and also the basis of such apportionment amongst different licenses held by the company. In the absence of such clause or basis of apportionment, it can only be concluded that it is only the revenues under the license for the corresponding service area that are to be included in the GR.

A.11. The Licence Agreement has to read as a whole and all clauses are to be read harmoniously. It is submitted that various clauses use words like "*under the licence*", "*LICENSEE's business under the LICENCE*", "*furnish independent accounts for the SERVICE*", "*books of accounts ... in respect of the business carried on to provide the service(s) under this Licence*" etc. These clauses and words are not redundant and need to be interpreted / given a meaning. There can be no "Gross Revenue" outside the scope of these terms of the License Agreement.

A.12. In fact, even with respect to Licenses like ILD, VSAT and IPLC where definition of GR is almost same, it can only mean that each component of revenue in the GR definition pertains to revenue from Licensed SERVICE under respective License. Such Licensed SERVICE under each License is different and hence GR will be different depending upon type of License.

A.13. We would also like to draw the Authority's kind attention to Clause 18.3.1 of the UAS License Agreement which states/provides that "...*while calculating 'AGR' for limited purpose of levying*

spectrum charges based on ***revenue share, revenue from wireline subscribers shall not be taken into account.*****" This provision can only mean that SUC shall not be payable on services that do not use the spectrum, i.e. the SUC is to be paid only on the revenue from wireless subscribers (emphasis on "subscribers" supplied).**

A.14. This is further evidence that the GR only pertains to service related revenues. Further, if this principle has been applied to SUC, there is no logic or reason for it not to be applied to license fee. It is thus our contention that the license fee is also payable only on revenues from wireless and wireline **subscribers**.

A.15. Without Prejudice to the fact that non-SERVICE Revenues do not form part of GR in the existing Licenses, it is submitted that Licensor can only charge SUC on Revenues from Wireless SERVICE under the UASL/CMTS, even as per Licensor's interpretation. It is reiterated that the principle applied by DoT to SUC should also have been applied to LF.

Section B: Intra Circle Roaming and AGR

B.1. We respectfully submit that Intra Circle Roaming pass through is presently also allowable as deduction under the License Agreement since Intra Circle Roaming is a sub set of roaming. The deductions under license allowed do not distinguish between Intra and Inter Circle Roaming.

B.2. The Authority has also recorded in the Consultation Paper that, in response to its letter dated 28th January 2011 regarding admissibility of intra circle roaming charges under the definition of pass through charges for calculating AGR, DoT vide its letter dated 31st May 2011, has clarified and confirmed that:

"*As per definition of Adjusted Gross revenue (AGR) as contained in Clause 19.2 of UASL agreement, roaming revenues actually passed on to other eligible/entitled telecommunication service providers shall be excluded from the Gross Revenue to arrive at the AGR.*

The intra circle roaming charges come under above category, the same may be allowed as deductions." [emphasis supplied]

B.3. Further, we do not agree with the view of the Authority that prior to June 2008, only inter-service area roaming was permitted and therefore the roaming revenue mentioned in clause 19.2 of the UL (AS) quoted above probably refers to the revenue relating to inter-service area roaming.

B.4. It is first submitted that there was no bar on any roaming, including Intra Circle Roaming, at any point of time starting from beginning of licenses, only that Intra Circle Roaming was expressly included in the license in 2008.

B.5. In any event, the DoT has rejected the above view of the Authority vide its letter dated 31 May 2011 mentioned above and has clarified and confirmed in 2011 that intra circle roaming charges come under the category of roaming revenues and are to be excluded from GR to arrive at AGR.

B.6. The Authority's view taken in its Recommendations on "Terms and Conditions of Unified License (Access Services)" dated 2nd January 2013 has once again been rejected by DoT as neither the Unified License Guidelines nor the Model UL license distinguish between inter and intra circle roaming for the purposes of deductions from the GR.

B.7. We would also like to highlight that 'Intra Circle Roaming' was confirmed by DoT time and again, including at the time of 2.1GHz auctions has also been upheld by TDSAT vide its Order dated 29 April 2014.

B.8. It is further submitted that "Roaming' will have same meaning for the purpose of revenues as well as deductions. It cannot be the case that Intra Circle Roaming' is part of Roaming for Revenues and is not part of Roaming for deductions.

Section C: <u>Suggested Approach and Guiding Principles for Revenue Share:</u>

<u>Definition of Revenue Base:</u>

C.1. This Section read with Section D and E of the Background & Preliminary Submissions broadly lay down the factors and principles that lead to suggested Revenue Base for purpose of License Fee.

Factors like changing Licensing Regime, Spectrum Auctions, Transformation in Telecom, Uniform License Fee, convergence together with unwanted complications in assessments and non-reconciliations leading to increasing exposures have important bearing on re-consideration of the entire regulatory philosophy with respect to the AGR definition.

The principles of no double taxation, ease of verification and transparency are being severely tested under the current regime, hence the AGR definition review is further warranted.

C.2. **We would like to explain our approach to the AGR definition, with the following illustration:**

If we were to assume a hypothetical base case that India had only one Telecom Licensee for all services, with no Roaming and no interconnection with other licensees, then the Revenue Base would simply have been the Revenues from SERVICES (i.e. Services under the Scope of the License) which would be realised only from end users (i.e. subscribers). In such hypothetical circumstances, there would not have been any Pass Through Charges [PTC] and no sharing/renting since it was all captive. It would also have been easily possible to show the amount of Levies to DoT in the bills to subscribers as the levies would be directly relatable to the revenues earned from the subscribers. In fact, this Revenue Base is the only rightful representation for purpose of License Fee not only for such hypothetical Pan India Licensee but for the Telecom Industry as well.

It is our view and submission that the same Revenue Base i.e. 'Revenues from subscribers for SERVICES' should also hold as rightful representation for the purpose of License Fee for the telecom industry comprising of multiple operators/Licenses. The presence or absence or nature of any payment arrangement between Licensees inter se for carrying / terminating each other's traffic, for roaming arrangements or for sharing resources/sites, has no linkage to the industry's Revenue Base i.e. Revenues for SERVICES from subscribers.

This Revenue Base can also be applied in a multiple Licensee scenario for the purpose of License Fee.

C.3. **This Revenue Base for purpose of License Fee is becoming more and more relevant if factors like - requirement of different types of sharing (passive, active, spectrum etc.) between Licensees for cost savings and efficiency, continuing hassles and wrongful disallowances of deductions on account of pass through / roaming charges leading to undue and high exposures, uniform license fee structure, delinking of spectrum and license, Unified License requiring one single definition under the License and not different definitions for each authorisations, different types of licensed activities under each license (e.g. wireless and wireline under UASL), need to improve business efficiency and structure the business in the most efficient manner, etc. - are considered.**

C.4. **In fact this approach is also implicitly/partially followed even in the current regime where inter operator payments are allowed as deductions and thus 'cancelled out/netted off' by the DoT. However, by first including the inter operator payments in**

the revenues and then allowing them as deductions, creates a cumbersome and complex procedure of 'reconciliation' requiring the TSP to provide and for the Licensor to check truck-loads of information in form of bills, bank statements, TDS certificates, payment proofs so as to allow the 'deductions'

C.5. **It is therefore our submission that only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees or revenues from** services to end users which do not require license **should not form part of Revenue Base.**

C.6. Under this proposed Revenue Base for the purpose of License Fee, the following items, which as per our interpretation of the existing licenses, are in any event not part of GR for the reasons highlighted above, will get automatically excluded and be out of purview of such Revenue Base:

a. Items which are not Revenue in nature such as for example, Profit on Sale of any Assets; Insurance Claims; IRU of any Asset, etc.
b. Items which may be Revenue in nature but which are not SERVICE Revenues – e.g. interest on Company's lending /Inter-corporate loan, Dividends on Investments, Foreign Exchange Gain on Import or Export of Equipment, Notional or realised Foreign Exchange Gain Adjustments as on date of Balance Sheet, any other service which can be otherwise provided without license, etc.

C.7. In respect of interest and dividend, we understand that there are some concerns on possibility that a Licensee may do some tariff structuring, where it takes large interest free deposits from subscribers and gets income from interest and thereafter does not pay license fee on such interest. We believe that it is to address such situations only, that there is a mention of interest/dividend in the existing definition of GR in the Licenses, but it is re-iterated that the item has to be sub-set of SERVICE Revenues to address related concerns. Further, these are exceptional items and should be treated separately Most importantly, such exceptions, should not, under any circumstances be the basis to change the fundamentals of Revenue Base on SERVICE related Revenues under license only.

Principle of No Double Taxation:

C.8. Under the present License Agreements, the Double Taxation is not there in case of PTC and Roaming Charges since the respective deductions are allowed from GR to arrive at AGR. However, **the provisional assessment instead of being done based on auditor's**

certificates, each bill, bank statement, TDS certificate, payment proof is being demanded thus negating the entire exercise carried out by the auditors.

C.9. As submitted above, the **cumbersome and complex procedure of 'reconciliation' requiring the TSP to provide and for the Licensor to check truck-loads of information in form of bills, bank statements, TDS certificates, payment proofs so as to allow the 'deductions' leads to enormous** ground level difficulties being faced by Licensees and have led to situations where accounts cannot be closed for years as they are still awaiting assessment by the CCA offices of DoT.

C.10. Further, wrongful disallowance of legitimate deductions is leading to incidences of double taxation, leading to an undue exposure increasing AGR by as much as 30%, leading to license fees almost being levied of GR instead of AGR. This has also led to a number of disputes, further adding to the multiplicity of litigations that are already pending on AGR and related issues.

C.11. While it can be suggested that such reconciliations of PTC and Roaming Charges deductions can be done easily based on auditor's statements or certifications or TDS certificates where cross checks can be made inter-se between statements/certificates provided by various Licensees, we believe that this entire process of reconciliation on inter licensee payments is not required as it is ultimately netted off. We would once again like to highlight our one hypothetical operator illustration above, where no such revenues or deductions would arise.

C.12. We would also like to highlight that this principle of no double taxation is not being followed completely. As per the License, the PTC, including IUC, SMS Termination and Roaming Charges, including payments on account of Intra Circle Roaming, are presently allowed as deductions from GR to arrive at AGR.. However, charges, like Port Charges, Bandwidth Charges, Cable Landing Station charges, interconnection set up costs, roaming signalling charges, etc., paid by one licensee to another, are presently included in GR. Such inter se Licensee transactions are only a purchase of necessary input resources to provide SERVICE to subscribers and cannot be treated as revenues. It may be noted that such "revenues" would not arise in a case of a hypothetical single operator, which we believe should be the anvil on which the definition of revenues should be tested.

C.13. Similarly, renting/sharing of resources to/with another Licensee Company is a mechanism to reduce/optimise costs and should not be counted as revenues in the hands of the operators. It is further contrary to the very objectives of cost optimisation for which sharing/renting is done in the first place and can dis-incentivise such arrangements that are the need of the hour. With the huge connectivity objectives before us and in order to deliver on the broadband vision of the Government – all efforts should be made to encourage and incentivise such cost sharing arrangements so that the limited resources can be put to the best possible use. Therefore,

since Sharing/Renting of Infrastructure between Licensees is critical for cost optimisation and better efficiency, any such sharing/renting should be promoted and not taxed by way of License Fee.

C.14. Further, as we move towards a Unified License regime, under UL there will be different authorisations given under the same License. Thus, there will be common infrastructure which will be used for more than one authorisation. In such cases it will be very difficult to show sharing/renting revenues/transactions amongst various authorisations within same License. The same issue may be present today in case of companies having multiple Licenses; however, the futility of showing these transactions is glaring in case of Unified License.

C.15. Thus, it is suggested the following transactions should not be brought in purview of Revenue Base for the purpose of License Fee in order to avoid double taxation and to promote sharing/renting between Licensees:

a. Renting/Sharing of bandwidth and/or passive infrastructure between Licensees for Licensed Activity
b. Sharing of active infrastructure between Licensees for Licensed Activity
c. Port Charges, interconnection set up costs, roaming signalling charges, cable landing station charges
d. Any periodic rentals for space for ensuring interconnection

C.16. In view of the above, we once again submit that only Revenues from SERVICE to subscribers should comprise the GR and the Revenue Share should be actually charged only once on such GR only.

C.17. There is one more important issue which is leading to double taxation, in complete violation of License terms. For some of the assessment years, Licensor has taken quarter-wise details of deductions on both accrual and paid basis but in each quarter Licensor is allowing deductions on different basis, i.e. either accrual or paid, whichever is lower. This non-uniform quarter wise approach is arbitrary and against any interpretation of license and is depriving Licensees their rights to claim deductions even where it is shown that all payments have been made to other operators. This has again led to litigations.

C.18. **We earnestly request the Authority to recommend a system which addresses all such issues causing double taxation due to immense difficulties faced in reconciliation on account of incorrect interpretations.**

Transparency:

C.19. It is submitted that for Revenue Share with the Licensor to be an effective and successful mechanism, the methodology to compute the 'Revenue Base' must be unambiguous and simple.

C.20. Further, it should be transparent to all stakeholders including the subscribers and the subscriber should know what proportion of his/her payment to operator is being :

(a) Retained by operator
(b) Paid as Levies to DoT
(c) Passed through as Service Tax

C.21. What the above structure will achieve that whenever the Licensor reduces levies, the effect of the lower levies will be immediately visible to the customer and the regulator and the Government can be assured that such benefit will flow directly to the subscriber.

C.22. This transparency is not possible presently as historically, different licensees were paying License Fee at different rates and even the SUC rates were quite different. Further, currently, the levies are being paid on AGR which is different from the bills/payments made by the subscribers.

C.23. We believe that this issue can be addressed by prescribing a uniform rate of charge for License Fee (which is presently also the case) with a flat rate for spectrum across all licenses. This will provide an easy, transparent and verifiable system which gives clarity on basis of charging levies, and will also be in public interest. This is explained in in more detail in Section D hereunder. Further there are two ways of depicting the Rate of Levies in such a case which are as follows:

Option 1 – Current Approach:

Assumption :	
• Total billing (before service tax)	100
• License fee @ say 8% of revenue	
License fee payable	8
Revenue retained	92
Effective license fee	8.7%

Option 2 – Proposed Approach (i.e. License fee should only be on revenue retained by the licensee and not on gross amount including the license fee).

Assumption :	
• Total billing (before service tax)	100
• License fee @ say 8% of revenue	
License fee payable	7.41
Revenue retained	92.59
Effective license fee	8%

It may be noted that in Option 2, the purpose that whenever Licensor reduces levies, the effect of lower levies will be visible to the customer and regulator is clearly met.

C.24. As mentioned above, the definitions of GR or AGR and the component of Revenues/Deductions within each type of License Agreement/Authorisation are referable to the service being provided. We submit that going forward into the Unified licensing regime, there is a need to streamline and harmonize the definition so that there is a single uniform definition **which will apply irrespective of types or number of authorisations, provided the Rate of Revenue Share/Levy is same across all authorizations.**

C.25. **This will pave the way for simpler levy as shown in Option 2 above, provided the Revenues for such purpose will only include Revenues from SERVICES to Subscribers under license and Revenues from other Licensees will be out of purview of the Revenue Base.**

C.26. As mentioned above, Revenues from other Licensees will mean Pass Through Charges including Voice/SMS termination charge, Roaming Charges including ICR, sharing/renting of Infrastructure (passive, active, spectrum), Port/Space Charges, interconnection set up costs, roaming signalling charges, cable landing station charges. It is submitted that these were relevant for AGR computation because of different rates of levies for different Licenses/Authorisations. **If rate is uniform across all Licenses/Authorisations then inclusion of such Pass Through/Roaming Charges in GR in the first place is not required.**

Easy Verification:

C.27. We believe that depiction of Revenue Share (Option2) in the bills of the subscribers will be the most effective and easiest way of verification. Revenue Base for the purpose of License Fee will be shown as separate item in the Annual Accounts. They can be easily verified from the books of accounts and there are adequate systems of checks and controls in place. In any case, as per the law also, such SERVICES can only be provided by Licensees only and there is no scope of others providing these SERVICES. **There will not be any issues of shortfall or controversial interpretation or complicated never ending reconciliations.**

Section D: Uniform Rate across all Licenses / Authorisations of Revenue Share from SERVICES to subscribers

D.1. As the Authority is aware, revenue share was first introduced in 2001 effective from 1.08.1999. Historically, the rates were different across different licenses leading to difficulties in administration and enforcement.

D.2. A Committee set up by DoT in 2009 acknowledged the need for a simple and verifiable approach and suggested a uniform license fee of 8% AGR across all licenses.

D.3. The principle of uniform license fee has also been consistently advocated by the Authority and this was finally implemented in a two-step process from 2012-13.

D.4. Out of the License Fee of 8% AGR paid to the Government, the contribution towards USO, is 5% of AGR. The USO levy was built into the license fee at a time when the mobile licenses did not carry any rural rollout obligations. However, as the Authority knows, rural rollout is now a part of licenses and the condition of spectrum auctions. Under these circumstances, the very rationale of imposition of a USO levy needs to be reconsidered.

D.5. It may also not be out of place to point out that the private mobile operators have aggressively rolled out their networks providing coverage and services in rural areas far in excess of anything achieved through the USO Fund. Till date, the TSPs have provided 85% geographical coverage and the tele-density rates are now 75% from nominal rate of 4% in 2001. By imposing a USO levy and also mandating rural rollout obligations results in a double whammy for the TSPs, which is unfair.

D.6. Moreover, the USO funds are not being effectively utilised and are just being accumulated. This is resulting in valuable funds lying idle, which could have been used to meet national connectivity objectives while the private operators face a double whammy of contributing to USO and also rolling out in rural and remote areas.

D.7. Further, since the Revenue share is from the payments made ultimately by subscribers, customers in rural areas are also paying for USO without getting any commensurate benefits.

D.8. In view of the above, we believe that there is good case to consider at least a phased reduction of USO contribution rates in the License Fee.

D.9. We would also like to draw the attention of the Authority to the anomalous regime in respect of spectrum usage charges, where, for a long time, there has been a substantial variance in unit annual cost of spectrum of each operator. The distortions have been caused by many

factors including slab based rates for SUC which are linked with AGR and different rates for different licensees. We had represented to the Authority and Licensor many times in this respect. This discrimination was further aggravated between 2010–2013 where despite, spectrum being auctioned and fetching the market price, the SUC continued to be applied on an escalating slab basis.

D.10. While the anomaly has been corrected to some extent in the February 2014 auctions with the implementation of a SUC of 5% for auctioned spectrum, this is being applied on a weighted basis to existing allocations. Also, a revenue share approach to SUC creates inherent disincentives for performing operators with a greater scale. In fact the Press Release dated 31.01.2014 of MoCIT mentions that it is desirable to move to a flat rate SUC.

D.11. We believe that there is also a need to move to a flat unit rate (per MHz rate) of SUC for existing and future spectrum as ideally, since spectrum is an essential input resource, such unit annual cost should be the same for each user. Thus, a basic correction is required by moving towards principle of Equivalence of Inputs. We submit that unless this basic anomaly in spectrum pricing in India is addressed, not only the discrimination between operators will increase further, but this will be always a factor for any initiative including sharing, spectrum auctions etc.

D.12. In present context, we would like to suggest that one option can be that only Revenue from Subscribers for Licensed services should be considered for Revenue Base for License Fee. Revenues from activities which do not require license are outside the purview of Revenue Base. If SUC continues to be linked to revenue then such Revenue from Subscribers will be confined to licensed wireless services. Otherwise, SUC be delinked from AGR by charging on per unit annual rate for both existing and future spectrum and License Fee is charged at uniform rate from all Licensees.

D.13. We would thus like to submit that all such issues pertaining to complexities in reconciliation and difficulties in enforcement can be addressed if a uniform rate of Revenue Share for License Fee is followed for all Licenses, which rate may ideally should be 3% (with 0% USO). However, a rate of to 6% (with 3% USO) at initial stage with glide path to 3% in next few years may be a more realistic.

D.14. This will help not only in Revenue Share being made simple but will also help, bringing consistency in the business, transparency to the customers, benefit to the customer if the levies get reduced etc.

D.15. It is our believe that for India to fully leverage the evolving telecom landscape of unified licensing, convergence, etc and to deliver of the vision of a Digital India, it is imperative to move to a Uniform One Common Rate for License Fee based on Revenue Share.

Section E: Definition of Revenue Base

E.1. With a uniform single rate of Revenue Share for License Fee, the outline definition of Revenue Base for the purpose of License Fee can be as follows:

E.2. 'Revenue Base' for the purpose of License Fee shall mean Revenues from SERVICES (i.e. Licensed Activity for the respective Service Area(s)) from Subscribers and shall not include 'Revenues from other Licensees'. Revenues from USO fund and any other revenues which are not from SERVICES from Subscribers shall not be deemed to be Revenues for the purpose of 'Revenue Share'. Services to end users which do not require license shall not be part of Revenue Base.

E.3. 'Revenues from other Licensees' shall mean the following amounts accrued to a Licensee from any other Telecom Licensee on account of the following:

a) Any Termination Charge or Carriage/Pass Through Charge as per respective Interconnection Agreement;
b) Any Roaming Charges for National Roaming or ICR as per mutual Roaming Agreements;
c) Any Port/Space Charges interconnection set up costs, roaming signalling charges, cable landing station charges as per respective Interconnection Agreement; and
d) Any sharing or renting or reimbursement agreement for sites, passive infrastructure, active infrastructure, bandwidth and spectrum as per mutual agreement(s) to enable Licensees to provide SERVICES, as defined in respective License, to their Subscribers.

E.4. 'Revenues from SERVICES from Subscribers' shall mean Revenue accrued from non-Licensees for SERVICES under the License and will further include the following:

a) Any Non-refundable Deposit from Subscriber;
b) Any interest on Deposits from Subscribers (Interest Rate can be assumed to be SBI rate of six month FD) ; and
c) Any revenue from handsets/ terminal equipment sale which is bundled with SERVICES.

E.5. It is also submitted that the revenue should be recognized as per industry best practices and accounting standards issued by the Institute of Chartered Accounts of India (ICAI).

We respectfully submit that since the matter of interpretation of definition of GR and AGR under UASL/NLD and ILD is sub-judice and is before Hon'ble TDSAT, our response below is 'without prejudice' to our contentions in the respective matters.

III. ISSUE-WISE RESPONSE

Against the above backdrop of Background and Preliminary Submissions, we provide herewith our response to the various issues raised by the Authority.

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?

a. **Factors like changing Licensing Regime, Spectrum Auctions, Transformation in Telecom, Uniform License Fee, convergence together with unwanted complications in assessments and non-reconciliations leading to increasing exposures have important bearing on re-consideration of the entire regulatory philosophy with respect to the AGR definition.** We believe that the current system stifles and impedes innovation and stifles growth of the sector. **The principles of no double taxation, ease of verification and transparency are being severely tested under the current regime hence the AGR definition review is further warranted.**

b. The Authority has also very rightly noted in its Consultation Paper that there are some very important changes in the present regulatory framework i.e. the introduction of a unified licensing regime and the delinking of spectrum from licenses etc., that necessitate *a regulatory re-appraisal of the philosophy underlying the definition of AGR and an assessment of whether the existing definitions meet the requirements for orderly growth of the telecom sector* and need for a uniform definition.

c. **It is our view and submission that there is an urgent need to review the** Revenue Base for the purpose of License Fee. We believe that **only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees** or services to end users which do not require license s**hould not form part of Revenue Base.**.

d. **This approach is also implicitly/partially followed even in the current regime where inter operator payments are allowed as deductions and thus 'cancelled out/netted off' by the DoT.** However, **the provisional assessment instead of being done based on auditor's certificates each bill, bank statement, TDS certificate, payment proof is being demanded thus negating the entire exercise carried out by the auditors also leading to a cumbersome and complex procedure of 'reconciliation' requiring the TSP to provide and for the Licensor to check truck-loads of information in form of bills, bank statements, TDS certificates, payment proofs so as to allow the 'deductions.** This results in enormous ground level difficulties being faced by Licensees and have led to situations where accounts cannot be closed for years as they are still awaiting assessment by the CCA offices of DoT.

e. Further, wrongful disallowance of legitimate deductions is leading to incidences of double taxation, leading to an undue **exposure, increasing AGR by as much as 30%** leading to

Revenue Share almost being levied on Gross Revenue. This is impacting large number of operators and hence leading to double taxation on the industry as a whole. This is also leading to a number of disputes, further adding to the multiplicity of litigations that are already pending on AGR and related issues.

f. Pass through charges such as IUC, SMS Termination and Roaming Charges, including payments on account of ICR, are presently included as revenues and then allowed as deductions. As these charges are ultimately netted off, it is suggested that these be excluded from both revenue base as well as permissible deductions, as reconciliation of the same is a cumbersome, complex and controversial exercise leading to difficulties in closing the accounts and wrongful disallowances of deductions leading to multiple disputes and challenges.

g. Charges, like Port Charges, Bandwidth Charges Cable Landing Station charges, interconnection set up costs, roaming signaling charges, etc paid by one licensee to another, are presently wrongly included in GR. Such inter se Licensee transactions are only a purchase of necessary input resources to provide SERVICE to subscribers and cannot be construed as revenues and should be excluded from the Revenue Base.

h. Similarly, renting/sharing of resources to/with another Licensee Company is a mechanism to reduce/optimize costs and should not be counted as revenues in the hands of the operators.

i. Further, as we move towards a Unified License regime, under UL there will be different authorisations given under the same License. Thus, there will be common infrastructure which will be used for more than one authorisation. In such cases it will be very difficult to show sharing/renting revenues/transactions amongst various authorisations within same License. The same issue may be present today in case of companies having multiple Licenses; however, the futility of showing these transactions is glaring in case of Unified License.

j. We thus also believe that a uniform definition should be adopted under Unified License. **Annual Spectrum Charges or SUC should be delinked from license and ideally be levied on per MHz basis for both existing and future spectrum.**

k. **The approach of taking revenues on accrual basis and allowing deductions on a paid basis** is incorrect, untenable, arbitrary and against any interpretation of license, again leading to disputes and challenges. This has again led to litigations. This is one more reason of review where we are not in favour of bringing and PTC or Roaming transactions between Licensees under the purview of Revenue Base for the purpose of License Fee.

l. **In summary, the definition of Revenue Base (term used instead of GR/AGR for the purpose of consistency) for the purpose of License Fee should only consider the revenue realized from subscribers for SERVICES.** This Revenue Base for purpose of License Fee, as explained in Section E of the Background and Preliminary Submissions, is becoming more and more relevant if factors like - requirement of different types of sharing (passive, active, spectrum etc.) between Licensees for cost savings and efficiency, continuing hassles and disallowances of deductions on account of pass through / roaming charges leading to undue and high exposures, uniform license fee structure, Unified License requiring one single definition under the License and not different definitions for each authorisations, different types of licensed activities under each license (e.g. wireless and wireline under UASL), need to improve business efficiency and structure the business in the most efficient manner , etc. - are considered.

m. We request that our submissions in Section II - Background & Preliminary Submissions be read as part of our response to this issue as the same provide an exhaustive reply to this question, including the proposed definition of Revenue Base for License Fee in Section E.

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?

a. The flaws in the present regime have been brought out in detail in Section II above.

b. As the Authority is aware, the licensor and the TSPs are interpreting the license conditions differently, and this issue has been a subject matter of litigation for over eleven years.

c. In respect of verification, it is submitted that apart from the c**umbersome and complex procedure of 'reconciliation', the wrongful disallowance of deductions has also led to multiple disputes and challenges.**

d. It is respectfully submitted that under the garb of "comprehensive" the DoT is wrongly including items that do not arise from the license or the license service area or from the service or items that are not even revenue in nature.

Thus, for the reasons given in Section II, we reiterate that **only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees or s**ervices to end users which do not require license **should not form part of Revenue Base.**

e. **We further request that our submissions in** Section C and D of the Background & Preliminary Submissions be referred, which provide an exhaustive reply to this question.

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?

a. It is reiterated that only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees or services to end users which do not require license **should not form part of Revenue Base.**

b. As explained in Section II, our proposal will meet the requirements of simplicity, verifiability and ease of administration.

c. **We further submit that there is a need to review the imposition of the USO levy, in light of the fact that rural rollout obligations are now being imposed on TSPs – leading to a double whammy/levy, the bulk of the funds in the USO** not being effectively utilised and just being accumulated, resulting in valuable funds lying idle, which could have been used to meet national connectivity objectives, USO levy also being paid ultimately by rural subscribers without commensurate benefits.

d. We therefore submit that there is good case to consider at least a phased reduction of USO contribution rates in the License Fee.

e. We would also like to suggest that with the de-linking of license from spectrum, the SUC should also be delinked and charged separately, ideally on a per MHz basis for both existing as well as future spectrum.

f. In present context, we would like to suggest that one option can be that only Revenue from Subscribers for Licensed services should be considered for Revenue Base for License Fee. Revenues from activities which do not require license are outside the purview of Revenue Base. If SUC continues to be linked to revenue then such Revenue from Subscribers will be confined to licensed wireless services. Otherwise, SUC be delinked from AGR by charging on per unit annual rate for both existing and future spectrum and License Fee is charged at uniform rate from all Licensees.

g. We suggest that all such issues can be addressed if a uniform rate of Revenue Share for License Fee is followed for all Licenses which rate may ideally should be 3% (with 0% USO). However, a rate of 6% (with 3% USO) at initial stage with glide path to 3% in next few years may be a more

realistic. In addition, ideally, a per unit uniform fixed annual rate can charged for both existing as well as future spectrum which should, in any case, be not linked with Revenues. This will help not only in Revenue Share being made simple but will also help in realising right price of spectrum, bringing consistency in the business, transparency to the customers, benefit to the customer if the levies get reduced, etc.

h. We request that our submissions in Section II- Background and Preliminary Submissions, be read as a part of our response to this issue.

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?

a. As submitted, only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees should not form part of Revenue Base. Services to end users which do not require license shall not be part of Revenue Base.

b. To avoid repetition, we request that the Background & Preliminary Submissions be referred, which provide an exhaustive reply to this question.

c. We believe that generally accepted accounting principles (GAAPS) and industry best practices should be adopted for the purpose of inclusion or exclusion of income from activities which may not require license.

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?

a. License fee should be levied only on Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers) which is defined as the Revenue Base. Any other revenue including revenue from other Licensees or from services to end users which do not require license shall not be part of Revenue Base

b. Please refer to Background and Preliminary Submissions and answer to Question Number 3.

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

a. **The Revenue base should only comprise of Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers). Any other revenue including revenue from other Licensees or from services to end users which do not require license shall not be part of Revenue Base**

b. In respect of SUC, we reiterate that SUC should be de-linked from Revenue Base and the charging should be at per unit uniform fixed rate.

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

a. **Only Revenues from SERVICES, i.e. from Services under scope of the License from the end users (subscribers), should form part of Revenue Base and any other revenue including revenue from other Licensees or from services to end users which do not require license should not form part of Revenue Base.**

b. **Items (a) and (b) may be included only to the extent that they arise from deposits given by subscribers.**

c. **Item (c) is not a revenue item.**

d. **Item (d) and (e) are not revenues from services to subscribers.** Renting/sharing of resources to/with another Licensee Company is a mechanism to reduce/optimise costs and should not be counted as revenues in the hands of the operators

e. **Discernable income from sale of equipment including handsets should be excluded from the revenue base.**

f. **Income on account of insurance claims, consultancy fees, foreign exchange gains etc., are not revenues from services to subscribers.**

g. Please also refer to Section II- Background and Preliminary Submissions where treatment of such items has been explained.

Q8: 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.

a. Only the revenue realized from end user subscriber should be considered for revenue base. It is also submitted that the revenue should be recognized as per industry best practices and accounting standards issued by the Institute of Chartered Accounts of India (ICAI).

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?

a. It is submitted that in the present mechanisms, licensees are required to submit license-wise annual audited AGR statements to the Licensor. The said statements are duly audited by Statutory Auditors of the licensee and the details of revenue are provided on quarterly basis, which are duly reconciled with the annual audited accounts of the licensee.

b. We believe that presently there are sufficient mechanisms available for proper verification from financial statement under the new Companies Act, 2013.

c. As per new Companies Act, 2013, there has been a specific provision for preparation of financial statements under the Schedule III of the Act and the General instructions for preparation of Balance Sheet and statement of Profit and Loss has already been issued, where it is very clearly mentioned that total revenue of the company shall be shown separately in terms of "Revenue from operation" and "other revenue". The general instructions have indicated that in respect of a company other than a finance company revenue from operations shall disclose separately in the notes revenue from-

(a) Sale of products
(b) Sale of services;
(c) Other operating revenues;

Less

(d) Excise duty

d. Revenue under each of the above heads shall be disclosed separately by way of notes to accounts to the extent applicable. Revenue Base for the License Fee (as finally defined) may be

disclosed separately for each license in the financial statement supported by a reconciliation with the revenues in Profit and Loss Account.

a) Furthermore, other income shall be classified as:
b) Interest income (in case of a company other than finance company);
c) Dividend Income;
d) Net gain/loss sale of investments;
e) Other non-operating income (net of expenses directly attributable to such income).

e. In view of said provisions/ instructions of companies Act, "No" new mechanism is required.

f. In case the Government wants to verify the same, trust can be placed on the audited accounts of the TSPs in all such cases. It is submitted that the regime of self-certification and self-assessments should be promoted in line with other Financial laws / Acts e.g. Income Tax, Company Law etc.

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?

a. We believe definition of Revenue Base for purpose of License Fee as suggested by us, meets all the principles of verifiability and transparency, as explained earlier. This read with uniform rate for License Fee across all licenses provides a simple system which will meet tests of assessment and tests under changing telecom requirement over a long period of time. Please refer to answer to Question No. 3.

b. As indicated in response of question number 9 above. The Exempting "other income" from the revenue base will have no impact on the verification mechanism to be adopted by Licensor.

c. We draw your kind attention to Section C of the Background and Preliminary Submissions, which provides the complete ambit of the flaws of the present regime.

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?

a. It is our respectful submission that it is the current regime that is more cumbersome and complex and beset with disputes around interpretation and reconciliation.

b. We believe that the approach suggested by us is simple, transparent, verifiable with no double taxation.

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?

No, there should not be any presumptive AGR applicable to Licensees.

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

a. As already submitted above, Intra Circle Roaming (ICR) pass through is presently also allowable as deduction under the License Agreement since ICR is a sub set of roaming.

a. This has also been clarified and confirmed by DoT vide its letter dated 31 May 2011. Further, neither the Unified License Guidelines nor the Model UL license distinguish between inter and intra circle roaming for the purposes of deductions from the GR.

b. It is further submitted that "Roaming' will have same meaning for the purpose of revenues as well as deductions. It cannot be the case that ICR is part of Roaming for Revenues and is not part of Roaming for deductions. Further, it is not correct to state that ICR was allowed only in 2008. In fact, there was no bar on any roaming, including ICR, at any point of time starting from beginning of licenses.

c. Having stated the above, we would like to submit that in context of suggested definition of Revenue Base for the purpose of License Fee, this is outside the purview of said definition like any inter se Licensee transaction.

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?

a. In context of suggested definition of Revenue Base for the purpose of License Fee, the sharing transactions will be outside the purview of said definition like any inter se Licensee transaction.

b. We request you to refer to Background and Preliminary Submissions which comprehensively respond to this issue.

It will however, be relevant here to reiterate the following:

c. Assuming a hypothetical base case that India had only one telecom Licensee for all services, with no Roaming, and then the Revenue Base would simply have been the Revenues from SERVICES (i.e. Services under the Scope of the License) which would be realised only from end users (i.e. subscribers). In such hypothetical circumstance there would not have been any PTC and no sharing/renting since it was all captive. It would have been easily possible to show the amount of Levies to DoT in the bills. In fact, this Revenue Base is the only rightful representation for purpose of License Fee not only for such hypothetical Pan India Licensee but for the Telecom Industry as well.

d. The same Revenue Base i.e. 'Revenues from subscribers for SERVICES' should also hold as rightful representation for the purpose of License Fee for the telecom industry comprising of multiple operators/Licenses. The presence or absence or nature of any payment arrangement between Licensees inter se for carrying / terminating each other's traffic, for roaming arrangements or for sharing resources/sites, has no linkage to the industry's Revenue Base i.e. Revenues for SERVICES from subscribers.

e. This Revenue Base can be applied in a multiple Licensee scenario also for the purpose of License Fee and this Revenue Base for purpose of License Fee is becoming more and more relevant.

f. Assuming that Revenue Base (i.e. Revenues from subscribers) in industry remains same and Licensees inter se enter into sharing arrangements for cost optimisation and more efficiency then there is no reason as to why Licensor should seek License Fee on the same and increase the cost which is contrary to the well-recognised objectives of sharing.

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.

a. We request you to refer to Background and Preliminary Submissions which comprehensively respond to this issue. In context of suggested definition of Revenue Base for the purpose of

License Fee, these transactions will be outside the purview of said definition like any inter se Licensee transaction.

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

a. Please refer to our submission in response to Question 9.

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

a. We request you to refer to Background and Preliminary Submissions which comprehensively respond to this issue.

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

a. It is suggested that present format of statement of Revenue and license fee may be modified in such a manner so that it may account for revenue realized from the licensed activities end user subscriber only; rest revenue shall be considered as a reconciliation items at the end of the financial year. This should be verifiable with audited financial statement of TSPs. Services to end users which do not require license shall not be under the purview of Revenue Share.

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.

a. Yes, **there a need to develop one format under unified license for combined reporting of revenue and license fee of all the telecom services.**

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.

a. We request you to refer to Background and Preliminary Submissions which comprehensively respond to this issue and our submissions in response to Question No. 9.

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

a. No, we believe that there is no need for audit of quarterly statement of Revenue and License Fee, showing the computation of revenue and license-fee.

b. The present practice of accepting quarterly payments based on self-certification of Revenue & License fee statements may be continued with the requirement of annual audit by the statutory auditors and reconciliation to the audited financial statements.

c. We note that presently, licensees submit annual audited AGR statements, in which details of revenue and license-fee is provided on quarterly-basis. Keeping in view this system, the audit of quarterly statement of Revenue and License-fee will be a duplication of activity, which will burden the licensees with additional efforts and extra cost.

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?

a. Not applicable in view of response to Question No.22.

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

a. No, with the concept of Revenue Base for the purpose of License Fee as proposed, there would be no need to do these adjustments.

b. We believe that the introduction of any such system i.e. deduction of LF at source, would further increase the administrative hassles.

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

a. We request you to refer to Background and Preliminary Submissions.

New Delhi
15 September 2014