



Association of Unified Telecom Service Providers of India

AUSPI/12/2013/ 013

31st January, 2013

Shri Arvind Kumar,
Advisor (NSL),
Telecom Regulatory Authority of India,
Mahanagar Door Sanchar Bhawan,
Jawaharlal Nehru Marg,
New Delhi.

Sub: AUSPI's Response to the TRAI's Consultation Paper No.19/2012 on Definition of Adjusted Gross Revenue (AGR) in license agreements for provision of Internet Services and minimum presumptive AGR.

Dear Sir,

Please find enclosed herewith AUSPI's Response to the TRAI's Consultation Paper No.19/2012 on 'Definition of Adjusted Gross Revenue (AGR) in license agreements for provision of Internet Services and minimum presumptive AGR'.

We request the Authority to kindly take our views into consideration while coming out recommendations on the subject.

Thanking you,

Yours faithfully,

Ashok Sud
Secretary General
Mob: 9312941515

Encl: As above

Copy to:

1. Shri R K Arnold, Member, TRAI
2. Shri Rajeev Agrawal, Secretary, TRAI



- 1) *Stakeholders are requested to give their comments on definition of AGR for all three categories of ISP licences.*

At the outset, AUSPI would like to thank the Authority for providing an opportunity to submit response to this consultation process on this important issue of AGR for ISP and other categories of telecom licenses.

Since the Government has already announced its decision that all future licenses will be Unified License, it is needed to arrive at a definition of AGR which is common for all types of services that a Unified License will allow to provide.

In reference to the definition of AGR for all three categories of ISP licenses, it has been mentioned by TRAI in its consultation paper that DoT has always excluded revenue from pure internet services while calculating the AGR for the purpose of license fee.

DoT, while taking such decision to exclude revenue from pure internet service from the definition of AGR for ISP license, perhaps had taken into account the status of internet access in India, its affordability, socio-economic benefits and its role in e-governance services to all especially to rural India. AUSPI would like to bring to your notice that even after such necessary decision by DoT to bring up the status of internet services in India, its growth has not been able to reach the desired mark leaving it still at a very nascent stage which can be seen in the table below which shows that total Internet subscription in India have been able to touch only 24 million mark till September, 2012.

Internet Subscriber Growth									
Year	Dec'04	Dec'05	Dec'06	Dec'07	Dec'08	Dec'09	Dec'10	Dec'11	Sep'12
Subscribers (Mn.)	5.45	6.7	8.58	10.36	12.85	15.24	18.69	22.39	24.01

Considering this very low adoption of Internet services in India, we request TRAI to not to consider to impose any further obligation or financial burden on the providers of Internet Services in India to enable them to provide services at affordable rates while maintaining their own sustainability and therefore exclude revenue from pure internet services while calculating AGR. Therefore, we request the authority to reduce by the following items also while calculating AGR.

- a) Revenue from pure internet access/broad band service
- b) Government taxes and levies
- c) Charges paid to other telecom service providers /NIXI



In view of above, we suggest to not to include any revenue from pure internet services in the definition of AGR of the ISP license.

- 2) *Should minimum presumptive AGR be applicable to BWA Spectrum holders under Internet Service/Access Service license(s) and other licenses with or without spectrum, including access service licenses? If yes, what should the value of minimum presumptive AGR?*

Response: We support TRAI's view of prescribing a minimum license fee & spectrum usage charges based on minimum presumptive AGR in order to ensure that licensees make sincere efforts in establishing network and start services at the earliest. This will also ensure efficient utilization of scarce spectrum by its holders especially the BWA spectrum for which the roll-out obligations are five years from the date of its allotment.

Regarding the value of minimum presumptive AGR for CMTS, UASL and ISP licenses, we understand that all existing spectrum holders (except BWA spectrum) are already using the allotted spectrum for commercial services and paying the license fee & spectrum usage charges on the basis of applicable AGR and hence **minimum presumptive AGR is not relevant for any existing licensee.**

In case TRAI prescribes any presumptive AGR, it must be for new licensees only to ensure efficient utilization of scarce spectrum and faster roll-out of commercial services.

- 3) *Please suggest the amendments required in the formats of statement of revenue and licence fee reported by various categories of Internet service licensees and UAS licensees.*

Response: Government in June, 2012 has already implemented Uniform License Fee regime by applying a uniform license fee of 8% of applicable AGR on all categories of license like, CMTS, UASL, ISP, NLD, ILD etc. however it has been noticed that formats of statement of revenue & license fee are not uniform for all categories of licenses.

As already mentioned in our response to the issue 1 above, it is needed to arrive at a definition/format of statement of revenue & license fee which is common for all type of services a Unified License will allow to provide.

There are number of issues concerning inclusion of certain revenue/ income streams in the AGR definition which are not from telecom activities. It is



important that statement of revenue & license fee is corrected to take care of these concerns.

License Fee as a percentage of Adjusted Gross Revenue should be applicable only from the revenues accruing to the licensee from the provision of licensed activities under the license. Pass through revenues should comprise of all revenues paid out to the other licensed telecom service providers and deduction should be allowed for payments made to other telecom licensees to avoid double incidence of license fee. We suggest following corrections in existing definition of AGR or format for statement of revenue & license fee which will be applicable for all categories of license like UASL, CMTS, ISP etc:

S. No	Item	AUSPI's Suggestions
1	INCOME FROM DIVIDEND	Exclude from the AGR definition should not be included in the AGR being a non licensed activity
2.	Interest Income : a) Interest Income Interest earned on investment of savings made by a licensee after meeting liabilities including liability on account of share of the Govt. in the gross revenue. b) Interest earned on investment of funds received by way of deposits received by licensees on account of securities against charges, particularly, from customers using international long distance calls service whose bills are heavy. c) Interest earned on deposits received by way of deposits from customers on account of concessions given in the charges payable for sing the telecom services.	Interest income should not be included in the AGR as this income is not from the telecom activity.
3.	Capital Gains	Please exclude from the AGR definition being a non licensed



		activity
4.	Gains from foreign exchange rate fluctuations	Please exclude from the AGR definition being a non licensed activity
5.	Reversals of provisions and Vendors' credit	Please exclude from the AGR definition being a non licensed activity
6.	Income from property rent	Exclude property rental income as this income is from other than telecom activity.
7.	Income from sale /lease of Passive Infrastructure like Towers, Dark Fibres etc	<p>a) Many charges which are paid by one operator to another operator are treated as revenues at the hands of both the operators resulting in cascading license fee applied at every stage in the supply chain without any deduction for license fee already paid at earlier stage. For example charges under leased circuits, port charges, co-location, dark fiber, towers etc by telecom operator to the other. These charges are not allowed as deduction.</p> <p>b) As per Value Added taxation principle charges for input services should be allowed to be off against the final product else there is cascading impact off taxation. In view of this it is suggested that input services like leased circuits, port charges. Dark Fiber etc should be allowed exclusion from AGR as pass thru charges.</p>
8.	Other including Misc Income	



	<p>a) Revenue streams like sale of tenders, directories, forms, forfeiture of deposits/earnest money, management fees, consultancy fees, and training charges from the telecom service should form part of AGR</p> <p>b) Revenue from sale of fixed assets which is in nature of capital receipts and insurance claims should not be part of AGR.</p> <p>c) Payments received on behalf of third party</p> <p>d) Other items falling under the categories of miscellaneous/other income will have to be decided for taking a view regarding its inclusion or exclusion on a case to case basis</p>	<p>a) Exclude</p> <p>b) Exclude</p> <p>c) Exclude</p> <p>d) Include/Excluded on case to case basis.</p>
9.	Any other miscellaneous receipt from investments	Please exclude from the AGR definition being a non licensed activity
11.	Revenue from sale of equipment including handset	Exclude (provided the sale is discernable and on stand-alone basis. In case of bundled sales include only if equipment is priced higher than costs plus say 10% profit and against such higher price telecom services are provided free or on subsidized basis.
12	Deduction of Leased Line charges, Port Charges, Interconnection Set Up costs, Signalling charges.	Allow deduction as these are akin to PSTN charges (on bulk basis).
13.	Bad Debts, Waivers, Discounts from AGR	License Fee is payable by the TSPs even in cases no amount is collected against issued



		<p>invoices. This is undue hardship on the licensee as there is not only loss of the revenue but also loss of License fee on the same. The amount of bad debt in the telecom sector is high. Equity demands that at least license fee corresponding to the amount written off by the service provider be allowed to him to be adjusted against his future liability.</p>
14.	Inclusion of items of revenue on accrual basis but exclusion of items of cost on actual payment basis.	Inclusion/ exclusion of an item should both be on accrual basis.
15.	No Spectrum fee on Wire line business revenue	Any other infrastructure income) which does not require/ Consume any Spectrum should not be included in AGR for computation of Spectrum fee. Thus revenue related to leased lines, bandwidth etc which is from wireline services should not be included for payment of spectrum charges.
16.	Notional income	Any income, which is not going to accrue telecom operators directly or indirectly, should not be included in AGR.
17.	Third party Contract	Any income which is accruable to a third party for providing services to subscribers, which does not require any telecom license, should not be included in AGR of telecom operator, viz. Charging Installation charges by third party to subscribers for installing customer premises Equipment (CPEs).



18	Service Tax /Sales Tax	Service Tax/Sales Tax are statutory dues paid to government. Payment of the dues is related to provisions under the act and benefits are given for investments or procurement of the company as per such provisions. These should not be treated as sources of revenue . Accordingly, these should be excluded from statement of computation.
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In view of the above, AUSPI suggests following definition for AGR:

Adjusted Gross Revenue

For the purpose of arriving at the “Adjusted Gross Revenue (AGR)” the following shall be excluded from the Gross Revenue to arrive at the AGR:

- (i) Pass through charges like leased circuits, port charges etc paid to other telecom service providers
- (ii) Service Tax on provision of service and Sales Tax actually paid to the Government if gross revenue had included as component of Sales Tax and Service Tax.
- (iii) Charges paid to other Licensees for any input Telecom Service
- (iv) Bad debts written off
- (v) Roaming revenue actually passed on to other eligible/entitled telecom service provider.
- (vi) Revenue from pure internet.
