

## **COAI Response to TRAI Consultation Paper No. 19/2006 on “Review of Internet Services”**

This is with reference to the Consultation Paper issued by the Authority on the above subject. Our response to the issues raised by the Authority is as below:

### **Q.1.**

**At present, there are 389 licensed ISPs out of which only 135 are offering Internet Services. Top 20 ISPs cater to 98% Internet subscriber base. In your view, is there a rationale for such a large number of ISPs who are neither contributing to the growth of Internet nor bringing in competition in the sector? Suggest appropriate measures to revamp the Internet service sector.**

- a. No Comments

### **Q.2.**

**Due to limited availability of spectrum for wireless broadband access, and high cost of creating last mile infrastructure, many ISPs are left with only option to provide Internet dialup access services. With increasing penetration of broadband, what efforts are required to ensure viability of such ISPs in changing scenario? Please give your suggestions.**

- a. The Authority would be aware from the Internet and Broadband subscriber data submitted by all operators, that apart from 1-2 stand-alone ISP operators, who appear to be serious players in the broadband segment, the major players in the Broadband segment are either the Incumbent operators or private UASL operators.
- b. It is further submitted that due to their extensive infrastructure and reach, the existing UASL operators have the capability to provide broadband services to more than 100 million subscribers. However, in order to support the UASL operators in this effort, it is essential that they have access to adequate spectrum not only to provide quality broadband but also to increase the penetration of Broadband services. Needless to mention, the spectrum should also be allocated to such stand alone ISP operators who have a substantial market share in the Broadband segment.
- c. As regards, the small ISP operators who have a limited market share, they may continue to offer Internet dialup access services.
- d. It is also suggested that in order to increase the penetration of broadband services, subsidy may be provided from the USO Fund for the provision of broadband services in rural and remote areas.
- e. It is also desirable that unbundling of the local loop be permitted on fair, commercial terms.

### **Q.3.**

**At present limited services are permitted under ISP licenses. There is no clarity in terms of some services whether they can be provided under ISP licenses. Do you feel that scope of services, which can be provided under ISPs licenses need to be broadened to cover new services and content? Suggest changes you feel necessary in this regard.**

- a. COAI agrees that there should be clarity on the services that can be provided under the ISP License.
- b. **In respect of broadening the scope** of service under the ISP license, it is submitted that **in the absence of clarity** on the services, that can be provided under the ISP license, we are **unable to comment on this issue.**
- c. It is however emphasized that the Authority should ensure that the scope of the ISP License is not enlarged at the cost of the scope of UASL/CMTS operators.
- d. In this regard, the Authority is aware that the UASL/CMTS operators have paid huge entry fee and are subject to high license fee, spectrum charges, ADC levy, Bank Guarantees, Roll out Obligations, QoS, Security Monitoring conditions, etc.
- d. Keeping this in view, it is **categorically submitted that any product/service/content such as Internet Telephony, which can be provided under the UASL License, should not be permissible under the ISP License** as it will create non level playing field.

#### Q.4.

**UASL / CMTS licensees have been permitted unrestricted Internet Telephony, however none of them are offering the service. ISPs (with Internet telephony) can provide Internet telephony within the scope defined in license conditions. The user friendly and cheaper devices with good voice quality are increasing Internet telephony grey market. Please suggest how grey market operations can be curbed without depriving users to avail such services?**

- a. It is first submitted that the **amendment to UASL/CMTS licenses whereby Internet telephony was permitted does not specify/describe the various aspects** related to provision of this service such as Numbering, Routing, applicability of per minute ADC on international calls, security and monitoring related issues, interconnection issues, etc.
- b. We verily believe that our member operators have sought clarifications in this regard from time to time, however, there is still a an absence of adequate clarity on these issues. Under these circumstances, it may be appreciated that the UAS/CMTS operators have been unable to move forward and offer unrestricted Internet telephony. **We are sure that once adequate clarity is available in respect of the above, the UASL/CMTS operators will be able to go ahead and offer unrestricted internet telephony.**
- c. As regards grey market operations, it is submitted that the **grey market arises due to the arbitrage opportunities** between various licences for the same service. It is suggested that in order to curb the grey market, **the Authority should harmonize the license fee, ADC and spectrum charges across ISP and UASL/CMTS licenses.**
- d. **Furthermore, the vigilance and monitoring efforts need to be escalated** by the Licensing authority **to block grey market services** such as Skype, Vonage, Google, etc, **which not only bypass the laws and regulations** of the country, but **also pose a threat to security.**

**Q.5.**

**How to address the issue of level playing field amongst the licensees of UASL, CMTS and ISPs?**

- a. The Authority is aware that the **UASL/CMTS operators have obtained their licenses after paying huge entry fees and have invested thousand of crores** to create a state of the art nationwide infrastructure. Further, they are also subject to high level of duties and levies, viz. license fee, spectrum charges, service tax etc and are also having to comply with onerous terms and conditions regarding QoS, security monitoring conditions, rollout obligations etc.
- b. COAI believes that **in order to maintain the level playing field**, which is the primary duty and responsibility of the Authority, it is **imperative that the ISPs desiring to provide internet telephony services (ITSPs) should migrate to UASL license** and should be subject to the same revenue share, license fee and other conditional ties applicable to existing UASL licensees.
- c. It is thus strongly recommend that ISPs should not be allowed to provide any such service, which can also be provided under the UASL/CMTS Licenses as it would create non level playing conditions. Any ISP, who wishes to provide similar services as are being provided under UASL/CMTS license, should be required to obtain a UAS License.
- d. **Further, to prevent arbitrage and to curb grey market activities, the license fee, ADC etc. should be harmonized across all telecom segments.**

**Q.6.**

**The emerging technological trends have been discussed in Chapter 3. Please suggest changes you feel necessary in ISP licenses to keep pace with emerging technical trends?**

- a. COAI believes that **all operators including ISPs should be encouraged and facilitated to keep pace with emerging technical trends**, so that they can **adopt new technologies to offer the services permissible under their respective licenses.**
- b. However, as stated above, the **Authority should ensure that level playing field is maintained and no operator should be allowed to offer a product or a service under terms and conditions that are different from those applicable to another operator/licensee.**

**Q7.**

**The service roll out obligations under ISP license is very general and can be misused by non-serious players. Do you feel the need to redefine roll out obligations so that growth of Internet can be boosted both in urban and rural area? Give suggestions.**

- a. COAI has always been of the view **roll out obligations should not be mandated** under license. Past performance has clearly demonstrated that the stipulation of rollout obligations and the imposition of stiff penalties for non-performance, does not necessarily lead to achievement of rollout. We believe **rollout needs to be facilitated and encouraged and not mandated.**

- b. In this regard, the **Authority has itself noted mandating rollout has not helped** and that the **thrust should be on ensuring that service providers find it attractive** to roll out his network even in uneconomic areas

**Q.8.**

**Do you feel that ISPs who want to provide unrestricted Internet telephony and other value added services be permitted to migrate to UASL without spectrum charges? Will it boost Internet telephony in India? What should be the entry conditions? Give suggestions.**

- a. No. We **strongly disagree with the above suggestion** of the Authority.
- b. The Authority is aware that **high entry fee for UASL/CMTS licenses is predominantly the fee for spectrum**. If the ISPs are allowed to migrate to UASL without spectrum charges, it would create severe non level playing field.
- c. It is reiterated that **any ISPs, who wish to provide the voice telephony or unrestricted internet telephony should acquire the fresh UASL/CMTS License after paying the concomitant entry fee** so as to ensure level playing field.

**Q.9.**

**UASL / CMTS licensees pay higher regulatory levies as compared to ISPs for provision of similar services, do you feel that similar levies be imposed on ISPs also to maintain level playing field? Give suggestions.**

- a. It is submitted that **as the ISP and UASL/CMTS operators are providing different services** and catering to different segments of the market, **application of similar entry fee would be counterproductive for both sets of operators.**
- b. **However**, as already submitted, **regulatory levies** such as annual license fees, spectrum charges, ADC, Bank Guarantees etc., **should be harmonized across all sets of operators.**

**Q.10.**

**Virtually there is no license fee for ISPs at present. The amount of Performance bank guarantee (PBG) and financial bank guarantee (FBG) submitted by ISPs is low. Do you feel the need to rationalise the license fee, PBG, FBG to regulate the Internet services?**

To bring seriousness into this business a rationalisation of all fees and penalties is a must. Therefore,

- Meaningful entry fee and revenue share should be introduced and harmonised as for NLD/ILD license
- PBG can be tiered based on scope of operations and revenues so that smaller players are not penalised
- Penalty clauses can be introduced to discourage grey market operations

It is again reiterated that **ISPs desiring to provide internet telephony services** (ITSPs) should **migrate to UASL** license and should be subject to the same revenue share, license fee and other conditionalities applicable to existing UASL licensees.

**Q.11.**

**At present ISPs are paying radio spectrum charges based on frequency, hops, link length etc. This methodology results in high cost to ISPs prohibiting use of spectrum for Internet services. Do you feel that there is a need to migrate to spectrum fee regime based on percentage of AGR earned from all the revenue streams? Give suggestions?**

- a. As mentioned above, COAI believes that **all regulatory levies including spectrum charges should be harmonised** across licenses. Therefore, **spectrum charges:**
  - **should be independent of hop length** etc. and
  - **should be paid for as % of AGR**
- b. It may however be noted that while applying spectrum charges as a percentage of AGR, these **charges must be applied only in respect of revenues arising through use of wireless media.**
- c. For example an operator may be offering internet service on both wireless and wireline media and thus if the spectrum charges are henceforth being recovered on a revenue share basis, then these charges should be applied only on that component of revenues that are arising from the use of wireless media and not on the revenues earned from all revenue streams.

**Q.12.**

**The consultation paper has discussed some strategic paths to boost Internet telephony, bring in level playing field vis-à-vis other operators, and regulate the Internet services. Do you agree with the approach? Please give your suggestion regarding future direction keeping in view the changing scenario.**

- a. Please refer to the answers to the issues above.