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EBG Federation response to TRAI Consultation paper on In Building Access by Telecom Providers

EBG Federation (EBG) was established on 11th March, 2015 as a Section 8 company under the Companies Act 2013 in order to ensure long term stability and clarity on its purpose as a not for profit organization offering support and advocacy for European businesses in India. Founded as the European Business Group (EBG), in 1997, as a joint initiative of the European Commission and the European Business Community in India, EBG has come to be recognized by the Indian Government and the European Commission as the industry advocacy group representing the interest of European companies in India.

EBG Federation is supported by the Delegation of the European Union to India and represents the 28 Member States of the European Union as well as accession countries and its partners in European Economic Area (EEA). The EU Ambassador is our Patron. Currently EBG has Chapters in Delhi, Mumbai, Bangalore and Chennai with approximately 170 companies as Members. Telecommunications is one of the strongest and best represented sector committees of EBG Federation. Mr. TV Ramachandran is currently the Chairman of the Telecom Sector Committee of the EBG.

The primary objective of EBG is to actively support growth in India-EU trade relations, become the most relevant advocate for European business in India and ensure that the needs of European business are well presented to policy and decision makers.

Preamble:

The Consultation Paper correctly states “Robust telecom infrastructure being the bedrock for reliable telecom services should be developed in a planned manner so as to cater to the existing and future demand in an efficient manner.”

This becomes more relevant since building the Pillars for Digital India requires a solid foundation. Digital India and Smart Cities will demand a high quality network of digital accessibility for Public Utilities such as hospitals, power, water, police, etc to work and interact effectively with the citizens/consumers.

We note that considerable coverage has been given in the Consultation Paper to the European Commission 2014 Broadband Cost Reduction Directive.

If we look at why this Directive was formulated, we see it is for reasons not so different to the Digital India initiative in India. These are measures across EU countries to reduce cost of high-speed broadband roll-out for creation of a Digital Single Market for a Digital Economy & Society in Europe.

In fact, as early as 2009, accessing Next Generation Access networks became an important issue for a unified European Market and countries like France and Portugal initiated steps within their countries to ensure the spread of Data Connectivity.

In France, the treatment of access to in-house wiring rests on two pillars: the “Law on the Modernisation of the Economy” (“Loi de Modernisation de l’Economie, LME”) and a draft measure – consisting of a draft regulatory decision and a recommendation

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1. The "Law on the Modernisation of the Economy" ("Loi de Modernisation de l'Economie, LME") foresees an obligation to share in-building fibre wiring at reasonable, transparent and non-discriminatory economical and technical conditions, at a local connection point ("point de mutualisation") located outside the private property, unless decided otherwise by the National Regulatory Authority. It applies symmetrically to all operators.
2. A draft measure consisting of a draft regulatory decision and a recommendation setting out the terms and conditions for access to fibre optic electronic communication lines and defining the cases where the local interconnection point can be located on private property.

In Portugal, a Decree-Law, published in May of 2009, included the definition of the framework that applies to the development of, and investment in, Next Generation Access, including the provision for technical standards on infrastructures for telecommunications aimed at eliminating or reducing vertical barriers to the roll out of fibre optics and to prevent the first operator from monopolizing the access to buildings.

The compulsory set up of fibre optics in the scope of the infrastructures for telecommunications in buildings (ITED) has been laid down, in addition to that of copper and coaxial cable, which has been compulsory so far. Rules have been laid down to avoid monopolization of ITED infrastructures by the first operator, by imposing sharing of the new (or upgraded) infra-structure within the building.

The first operator to reach a (already built) building has to install at least two fibres per home (apartment) and associated infra-structure to be shared by other operators (e.g. vertical infra-structure and ODF).

The second operator reaching the building will pay 50% of the costs incurred in the installation of the shared infra-structure. The third operator will pay 33% and so on.

Other countries adopted independent routes which the EC is now in the process of regulating the member countries efforts under one Directive.

We would also submit that the recommendations by the Authority, (TRAI), through its paper on Telecommunications Infrastructure Policy, dated April 12, 2011, has a number of excellent recommendations for In Building Access, besides the three that have been referred in this CP. We hope that these will be given due cognizance along with the responses received for this CP.

We respond to the issues in this CP as follows:

- 1) **Do you agree that there is a need to address the issues discussed in this consultation paper or the market is capable of taking care of these issues without having any policy intervention/guidelines in this regard?**

Ans) Yes there is a need. India is a country of many States, each with differing Building/Housing rules and permissions. The Indian market needs to be given directives through a Central Authority. It is a good step to frame a National Building Code identifying telecom infrastructure as essential facilities. Nearly all civic amenities and utilities connected to inhabited buildings will be dependent on good telecom infrastructure.



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Addressing the issue with proper guidelines will have a number of ensuing benefits:

- **Benefits to TSP's:** improvement of rules for RoW and access to buildings will greatly reduce impediments and roll-out schedules. Sharing of resources will financially benefit all TSP's and reduce customer complaints over delivery schedules. Good IBS reduces the load on macrocellular networks providing good network coverage in-building, thereby facilitating possible reduction of Base Stations and at the same time improving data packet transmission to indoor customers which results in overall improved QoS and Customer Satisfaction.
- **Benefit to Builders/Realtors:** a regulating policy (through Urban Development Ministry) will avoid unnecessary delays caused by disputes between building owners and TSP's/IP-I's for providing residents/customers the choice of their Service Provider.
- **Benefits to Customers:** (a) freedom of choice of Service Provider becomes easier with the envisaged provisions of the National Building Code. (b) One time ducting/cabling of a building for resource sharing ensures repeated ducting/cabling work is not required, thereby reducing irritation of tenants.

Furthermore, the market is looking at the **introduction of MVNO's**, who are seen as contributors to efficient use of existing telecommunication infrastructure and also to development of new infrastructure. Since MVNO's will be sharing MNO spectrum and facilities mainly, their USP's will include differentiated benefits/services to customers. IBS infrastructure will also be key to offering their services to customers. MVNO's may be in many instances, initiators of IBS facilities and need to be brought under the shared IBS regulations.

2) **How can sharing of telecom infrastructure inside a residential or commercial complex/airport/hotels/multiplexes etc among service providers be encouraged? Should the sharing of such telecom infrastructure be made mandatory?**

Ans) Sharing telecom infrastructure should be made mandatory. As listed in the first response above, it will benefit all stakeholders comprising TSPs, Building Owners and Customers, avoid duplication of infrastructure, reduce costs and maximize customer satisfaction.

Government should encourage **sharing through incentives to Operators and IP-I's** by way of reduction / removal of custom duties, excise duties, tax benefits etc. for sharing the infrastructure for IBS and DAS or may subsidise taxes, duties, levies etc linked with number of operators sharing the IBS in a particular facility.

Secondly, we have 634 registered IP-I's on the TRAI website. It would be a **boost to their business** to manage shared In Building Solution services for operators plus it would engage a Neutral infrastructure provider with professional and authorised implementation and maintenance abilities.

Sharing of towers and the success story in India of Captive and independent tower companies has inspired operators around the world to follow the Indian success story. Tower sharing created a strong incentive in the Indian telecom market: It allowed operators to reduce costs considerably and focus on core marketing activities; especially enabling new

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operators to rollout networks in record times. It has freed capital investments in infrastructure of telecommunications companies. The same could be true of shared InBuilding Infrastructure.

Thirdly, a Dispute Resolution Authority should be put in place for dealing with the cases of refusal of permission or imposition of conditions for granting permission by local authority/builder. The Indian Telegraph Act, 1885, under Section 7B (on *Arbitration of Disputes*) and Section 15 (on *Disputes between telegraph authority and local authority*) of the said Act clearly states that the award of the arbitrator who the Central Government may appoint either generally or specially in this behalf, shall be conclusive between the parties to the dispute and shall be final. TRAI has recommended a specific officer in its paper on Telecommunications Infrastructure Policy, dated April 12, 2011 "*The Authority recommends that Central Government should appoint Joint Secretary in DoT as the Dispute Resolution Authority for dealing with the cases of refusal of permission or imposition of conditions for granting permission by local authority.*"

Fourth, Dispute Resolution Timeframes should be frozen in the framework of the policy. The European Commission Directive mentions "*The national dispute settlement body shall resolve the dispute, within the shortest possible time frame and in any case within four months from the date of the receipt of the complete request except in exceptional circumstances.*" An outside limit needs to be prescribed for dispute settlement in India too so that one way or the other the propagation of Broadband is not delayed/hindered.

3) In view of the international practices given in Para 18-23 of Chapter-II of the Consultation Paper, what provisions should be included in the National Building Code of India to facilitate unhindered access for all the TSPs?

The 3 points mentioned in the Consultation Paper and shown below (Points 15,16 &17), are very much in keeping with the 2014 Broadband Cost Reduction Directive of the European Commission(EC). Article 8 & 9 of the EC are broadly covered by point 15 & 16 below. Point 17 of the CP needs to be looked at more stringently as disputes will rise and there must be a appointed authority in place along with implementation of a formal policy. Article 10 of the 2014 Broadband Cost Reduction Directive speaks in greater detail on this.

15. Creation of one time infrastructure i.e. telecom ducts to reach the buildings, which could be used by any TSP for putting cables. The TSPs should have unhindered access. These facilities should not be seen as revenue source; but as an essential infrastructure. Therefore, no charges should levied by the building owner.

16. Mandating creation of common telecommunication infrastructure (CTI) i.e. the facility that is housed inside the buildings and enables effective and quality access to telecommunication services. The new buildings or buildings undergoing major rehabilitation should include CTI.

17. The agencies approving the building plans are local/state bodies and do not come under the jurisdiction of DoT. However, DoT can take up the issue with the Ministry of Urban Development. It could be examined if the Real Estate Regulatory Agency (RERA) could be useful for this purpose.

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(Dispute Resolution Body from Article 10 of EC Directive on broadband cost reduction & Single Information Point

Member States have to appoint one or more independent body to resolve disputes between network operators regarding access to infrastructure, access to information and requests for coordination of civil works. Member States have the flexibility to appoint already existing body, or create new bodies *ad hoc*. Moreover, Member States have to appoint one or more Single Information Points where information on physical infrastructure and on permits can be made available.)

4) **Any other option, which in your view, could resolve the issues discussed in this consultation paper?**

Ans) a few points that may be considered are:

1. **Standards setting** for (a) all equipment used in IBS/DAS and (b) IBS Network planning.

Use of low grade equipment installed by low grade technicians will adversely impact the fundamental principles of Digital India by denying good broadband connectivity.

TEC/BIS approved equipment should be utilized and preferably only TSP's or registered/licensed IP-I's should implement these networks.

2. **Inter-ministerial technological coordination:** There should be a group of specialists from DoT who work with the Ministry of Urban Development and advise the Real Estate Regulatory Agency (RERA) on issues relating to telecom signal strengths and their penetrative ability vis-a-vis different building material, viz., foil-faced insulation and metallic window tinting. There will be information required by project managers and architects for planning cable installation and interstitial space for in-building access. Ready references should be made easily accessible for them.
3. The European Commission has provisioned for a **Single Information Point** in each member country to access information on permits, building structures etc. It would be extremely helpful to all stakeholders in India as well, for building plans – especially of public buildings, to be made available on special access basis to TSP's/IP-I's. Likewise, information on permits, local concerned authorities etc should be uploaded to the site as TSP's have a Pan India footprint and it will be easier for TSP's to understand local processes in individual states.
4. **Alternative option:** in lieu of IBS infrastructure especially in Heritage Buildings and older buildings not conducive to laying cable or with poor network coverage, alternative spectrum bands could resolve, in part, the issues faced in providing good in-building coverage. UHF Band IV (470-585 MHz) and Band V (582-698 MHz) which are currently being used for TV/broadcasting have excellent signal propagating characteristics which allow in-building coverage in dense urban areas, much more effectively than any other spectrum band. In case DoT and TRAI could look to freeing up a part of the TV UHF bands, use of this spectrum may be an excellent option to In Building Infrastructure. Similarly, V band (57-66Ghz), which has high throughput capacities (upto several Gigabytes) while installed indoors, could be a viable substitute to optical fiber for driving broadband connectivity inside the building/premises.