



# **Telecom Regulatory Authority of India**

## **Recommendations on Rationalization of Entry Fee and Bank Guarantees**

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## CHAPTER-I

### INTRODUCTION AND BACKGROUND

#### A. Introduction

1.1 Department of Telecommunications (DoT) vide its letter dated 3<sup>rd</sup> March 2022 (**Annexure-I**) sent a reference to Telecom Regulatory Authority of India (hereinafter referred to as “the Authority”) under clause 11(1) (a) of the TRAI Act, 1997 (as amended) on ‘Rationalization of Entry Fees and Bank Guarantees in Unified License (UL)/ Unified License (Virtual Network Operators) License’ stating: -

*“As per the current Unified License (UL)/ Unified License (Virtual Network Operator) regime, there is a provision of different Entry Fees and two separate bank guarantees (BGs) i.e. Financial Bank Guarantee (FBG) and Performance Bank Guarantee (PBG) for each service authorization.*

2. *The Department is of the view that the Entry Fees should be reduced and made uniform across all authorizations. In case of BGs, both FBG & PBG should be merged and amount of single BG may be prescribed for each authorization.*

3. *Therefore, TRAI is requested to submit its recommendations under section 11(1)(a) of TRAI Act, 1997 (as amended) on this issue”.*

1.2 Under the present Telecom License regime, there is a provision of Entry Fees and two separate Bank Guarantees (BGs) i.e., Financial Bank Guarantee (FBG) and Performance Bank Guarantee (PBG) for each service authorization.

1.3 Entry Fee is a fixed one-time amount that prospective entrants must pay to enter a market. Entry Fee is typically non-refundable and constitutes start-up costs for a firm. On the other hand, Bank Guarantees ensure that the

telecom service providers pay their dues on time and fulfill their obligations as per the License's terms and conditions prescribed in the agreement. Bank guarantee is a useful instrument to safeguard the interest of the government, in case the telecom service provider defaults on the payment dues or fails to fulfill its performance obligations. As per the present regulatory regime, FBG covers the liabilities in respect of license fee and other dues not otherwise securitized and PBG covers the violation of license conditions and ensures the performance under the license agreement.

## **B. Background**

- 1.4 In the National Telecom Policy 1994 (NTP 94), DoT had taken both types of BGs from service providers. Before signing the license agreement, a PBG of Rs 2 crore was to be given by service providers and an FBG equivalent to 90% of the first year's license fee was required. Subsequent continuance of this FBG was decided by the telegraph authority<sup>1</sup>.
- 1.5 To encourage further development of the telecom sector and recognizing the need to take a fresh look at the policy framework, the New Telecom Policy 1999 (NTP 99) was brought out. Under NTP 99, the Unified Access Services License (UASL) licensee had to submit both types of BGs before signing the License Agreement. Initially, the licensee submitted PBG and FBG according to the service area (category-wise) and these BGs were subject to periodic renewal.
- 1.6 The concept of Entry Fee was introduced through NTP 99 and, *inter alia*, levied on Cellular Mobile Service Providers (CMSPs) and Fixed Service

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<sup>1</sup> As defined in the Indian Telegraph Act 1885, "telegraph authority" means the Director General of [Posts and Telegraphs], and includes any officer empowered by him to perform all or any of the functions of the telegraph authority under this Act.

Providers (FSPs) as part of a migration package offered by the Government to mitigate industry distress at that time. The migration package stipulated that the entry fee for migration to NTP 99 (from the old fixed LF regime) will be equal to license fees dues payable by existing licensees up to 31<sup>st</sup> July 1999.

### **C. Present recommendations**

- 1.7 Authority released the Consultation Paper (CP) on 'Rationalization of Entry Fee and Bank Guarantees' on 26<sup>th</sup> July 2022 covering the subject including the issues of rationalization of entry fee, merger of bank guarantees and prescribing a single amount of BG for different authorizations/ licenses/ registrations/ permissions etc.
- 1.8 As a part of the Consultation Paper, the Authority had sought comments and counter-comments from the stakeholders. Written comments and counter comments on the consultation paper were invited from stakeholders by 23<sup>rd</sup> August 2022 and 6<sup>th</sup> September 2022 respectively. On the request of the industry associations/ stakeholders, the last date for submission of written comments and counter-comments was extended up to 6<sup>th</sup> September 2022 and 20<sup>th</sup> September 2022 respectively. Comments and counter-comments received from various stakeholders are available on TRAI's website. In all, twenty comments and one counter comment were received on the consultation paper.
- 1.9 An Open House Discussion (OHD) was conducted on 9<sup>th</sup> December 2022. Based on the written submission of the stakeholders, the discussions in the OHD, and the analysis undertaken by the Authority, the issues have been examined and these recommendations have been framed. Chapter-I covers a brief introduction and background on the subject, Chapter-II covers the

issues related to Entry Fee, Chapter-III discusses the issues on Bank Guarantees and Chapter-IV summarizes the recommendations.

## **CHAPTER-II**

### **ENTRY FEE**

- 2.1 Entry Fee is a fixed one-time amount that prospective entrants must pay to enter a market. Entry Fees are typically non-refundable and constitute start-up costs for a firm. Deterring non-serious entry and avoiding extensive usage of public and scarce resources by firms in certain industries are some of the justifications for prescribing an entry fee.
- 2.2 In the Indian telecommunications sector, the concept of Entry Fee was introduced in New Telecom Policy, 1999 (NTP 99). Presently, the Unified License Guidelines lays down provision for Entry Fee for various service authorizations.
- 2.3 The entry fee in UL license agreement is prescribed as:  
*A one-time non-refundable Entry Fee for each authorized Service shall be paid as per Annexure-.... The total amount of Entry fee shall be subject to a maximum of Rs. 15 Crore (Rupees Fifteen crore only).*
- 2.4 The entry fee in UL (VNO) license agreement is prescribed as:  
*A one-time non-refundable Entry Fee for each authorized Service shall be paid as per Annexure-.... The total amount of Entry fee shall be the cumulative Entry Fee of each authorization subject to a maximum of Rs. 7.5 Crore (Rupees Seven crores and fifty lakh only).*
- 2.5 DoT through its letter dated 3rd March 2022 informed TRAI of its view that Entry Fee under the Unified License (UL)/ Unified License (Virtual Network Operators) regime should be reduced and made uniform across all authorizations and requested TRAI to give its recommendations on the issue.

2.6 Through the CP dated 26<sup>th</sup> July 2022, the Authority solicited comments from stakeholders on a range of issues related to rationalization of entry fee. In light of the comments received from stakeholders, an analysis of the issues is presented below:

**A. Rationalization of entry fee in UL and UL(VNO) and other licenses**

2.7 To discuss the need for rationalization of Entry Fee from the present levels in the various licenses, the following questions were raised in the consultation paper:

**Q1. Should the entry fee be rationalized from the present levels in the UL and UL (VNO) licenses? Please support your comments with detailed justification**

**Q2. If the answer to Q1 is yes, should the entry fee be rationalized across all authorizations or some specific authorizations, both within each license and across licenses? Please justify.**

**Q6. Should the Entry Fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) be rationalized? If yes, please provide the reasons and appropriate levels of entry fee for each of these licenses/ registrations/ authorisations/permissions.**

**Comments received from stakeholders on Q1**

2.8 A majority of stakeholders have favoured rationalization of entry fee from the present levels. Some of these stakeholders have stated that entry fee should be kept at a reasonable level only to deter non serious entry, while others have stated that there should be either no entry fee or entry fee should be kept minimal only to cover administrative cost etc.



- 2.9 Those who have favoured rationalization have stated that entry fee constitutes a significant cost for entrants and past reductions have led to growth of the sector. Stakeholders have stressed that lower entry fee will remove barriers, promote competition, lead to economic growth, boost telecom coverage and quality, and lead to higher revenue for the government through rise in tax collection due to increased number of players. Certain stakeholders added that since spectrum has been delinked from licenses, therefore, entry fee should be reduced. Regarding VNOs one stakeholder stated that entry fees act as a barrier for VNOs and removing entry fee will promote growth of VNOs.
- 2.10 One stakeholder stated that internationally entry fees are either not levied or are low. Another stakeholder stated that for existing players and for new entrants which are PSUs, there should be no entry fee. However, there should be minimum fee for private players as new entrants.
- 2.11 One stakeholder stated that though fee should be rationalized, however, a reasonable amount is required to avoid entry of non-serious players. The stakeholder further stated that it was observed in case of ISPs that when the ISP license fee was Re. 1, many ISP licenses were taken. However, many of them did not start the services. Another stakeholder stated that large capital investments are required to build and run telecom, which also deter non serious entry.
- 2.12 Another set of stakeholders were against any rationalization of entry fees and preferred status quo stating that entry fees are already at a reasonable level for all authorizations. They reasoned that the present levels of entry fees are not acting as a barrier since the number of VNOs, ISPs, NLD, and ILD have increased significantly. It was also stated by them that entry fee is not significant, considering the capital investment required to offer services. These stakeholders also added that since

existing operators paid significant non-refundable fees, lowering entry fee will lead to a non-level playing field between existing and new entrants.

### **Comments received from stakeholders on Q2**

2.13 Regarding rationalization of fee for all or some specific authorizations, some stakeholders favoured that entry fee should be rationalized across all licenses and authorizations and pitched for zero to minimal fees. One stakeholder stated that entry fee should be rationalized for all authorizations, except ISPs where number of players are high. Rationalization across all authorizations will promote the proliferation and democratization of services under respective authorizations and will incentivize entry, promote competition and innovation, and encourage service providers to opt for additional authorisations.

2.14 Many stakeholders have stated that entry fee should be rationalized for all UL(VNO) authorizations. They were of the view that since VNOs don't employ their own networks and don't have access to point of interconnections, right of way etc., they don't utilize essential resources. They further reasoned that VNOs will play a crucial role in delivery of services such as 5G, IoT, M2M etc and lowering entry fee will save cash flows of VNOs.

### **Comments received from stakeholders on Q6**

2.15 Regarding rationalization of entry fee for licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO), some stakeholders stated that status quo should be maintained in this respect as present level of fees are appropriate. One stakeholder stated that entry fee for these authorizations should also be relooked in the light of

rationalization of entry fee for UL & UL(VNO). Another stakeholder stated that no entry fee should be charged for these authorizations.

### **Analysis with respect to the issues raised in Q1**

- 2.16 The Authority has analyzed all the comments of stakeholders and it is of the view that in order to arrive at a decision regarding rationalization of entry fees, it is essential to discuss the concept of markets with “Free Entry and exit”, barriers to entry and the rationale behind imposing regulatory entry barriers such as entry fee.
- 2.17 Market with “free entry & exit”<sup>2</sup> is a term used by economists to describe a condition in which sellers can freely enter the market for an economic good by establishing production and beginning to sell the product. Along these same lines, free exit occurs when a firm can exit the market without any restrictions when economic losses are being incurred. Barriers to entry is an economic and business term to describe the factors that can prevent or impede new entrants into a market or industry, and thereby limit competition. These barriers to entry can include high start-up costs, regulatory barriers, or other obstacles such as ownership of a key resource, market power of incumbents etc. that prevent new competitors from easily entering a business sector.<sup>3</sup>
- 2.18 Entry fee is an entry regulation mechanism which is an example of a regulatory/government barrier. Excess entry theorem<sup>4</sup> is a theoretical base for entry regulation. It theorizes that the free market can generate entry of excess number of firms, some of which may even be non-serious.

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<sup>2</sup> The economics of Seinfeld-<http://yadayadayadaecon.com/concept/free-entry-and-exit/>-

<sup>3</sup> OECD Documents: <https://stats.oecd.org/glossary/detail.asp?ID=3149>

<sup>4</sup> Jaebong Kim- <https://hermes-ir.lib.hit-u.ac.jp/hermes/ir/re/13815/DP402.pdf>

Entry regulation can lower the intensity of excess entry problem not by limiting entry but by imposing conditions on entry, such as imposition of entry fee etc.

- 2.19 This is also required as the excess entry of firms may lead to excess demand and rivalry in consumption for resources (inputs for production), thereby putting an extra burden on scarce natural resources. Ensuring a socially optimal level of entry by deterring non-serious entry and ensuring the efficient utilization of public and scarce resources are some of the reasons for imposing entry regulations such as entry fees by the governments/regulators.
- 2.20 Entry regulation is adopted in various industries. In the case of commercial airlines, the government limits new entrants to limit air traffic. Cable companies are heavily regulated and limited in number because their infrastructure requires extensive public land use.<sup>5</sup>
- 2.21 Thus, Entry fee may have positive outcomes by deterring non-serious entry. However, entry fee may also act as a constraint by limiting competition. Therefore, it is desirable that the entry fee is set at a level that balances this trade-off.
- 2.22 The telecom sector market is characterized by the presence of many entry and exit barriers. There are structural barriers arising out of the market structure such as high startup costs, large capital investment requirements, high R&D, and advertising cost etc. There are barriers created by the brand name and market power of the existing players. The telecom market is also characterized by the presence of regulatory barriers. Entering the telecom market requires incurring a significant

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<sup>5</sup> <https://www.investopedia.com/terms/b/barrierstoentry.asp#citation-7>

fixed cost which acts as an entry barrier by itself. Moreover, a part of this fixed cost is sunk in nature which may act as an exit barrier, which too may disincentivize entry in the first place.

2.23 The presence of structural barriers in such an industry may keep a significant check on non-serious entry and setting a high entry fee in such a market will increase the cost of entry and thereby act as a constraint to effective competition. Thus, the presence of the structural barriers in various segments of the telecom sector may be examined prior to arriving at an appropriate level of entry fee.

2.24 In this context, various financial parameters such as capital employed by average operator, total capital employed in the segment, net worth, paid up capital requirement at time of entry and market share of largest operator (in terms of revenue) in the segment have been analyzed in major segments of the telecom sector such as Access Service, National Long Distance Service (NLD), International Long Distance Service(ILD), Internet Service (ISP). The analysis is tabulated below:

**Table 2.1**  
**Segment -Wise Financial Parameters**

	Rs. in crore			
	<b>Access</b>	<b>NLD</b>	<b>ILD</b>	<b>ISP</b>
Total Capital employed (Industry)	447985.69	89923.53	8365.39	35174.58
Capital employed by an average operator	56268	6423	643	1526
Net worth required at time of entry	55 (all LSAs)	2.5	2.5	-
Minimum equity required at time of entry	55 (all LSAs)	2.5	2.5	-
Market share of the largest operator (in terms of revenue)	39%	32%	33%	39%
Note: The above information is based on financial data for F.Y. 2021-22 submitted by service providers to TRAI				

- 2.25 From the above table, prima facie, it appears that the structural barriers in the major segments of the telecom market are quite significant. The major services segments are capital intensive and require huge fixed cost to be incurred to operate in the market. The market share of the largest operators as well as the average capital requirement may itself act as a force to deter entry. Any new entrant in order to compete with existing operators and stay relevant in the market will have to credibly commit towards large investments in terms of fixed cost and R&D, as well as maintain sufficient liquidity. Moreover, the Net Worth required at time of entry for larger services also appears to be significant to deter non serious entry.
- 2.26 Those who have preferred status quo in respect of entry fee rationalization have cited that rationalization will lead to a non-level playing field between the existing players and new entrants. In this context, it may be noted that this is not the first time that rationalization of entry fees is being considered in the telecom sector. The entry fees have been reduced in the past by the government, considering the relevant market conditions at that point of time. Entry Fee for NLD segment was reduced from Rs. 100 crore to Rs. 2.5 crore and Entry Fee for ILD segment was reduced from Rs. 25 crore to Rs. 2.5 crore, as announced by DoT through its press release dated 10.11.2005. The government was of the view that the reduction would promote growth and enhance competition in these segments. In this regard, DoT issued the revised Guidelines For Issue Of Licence For National Long Distance Service and Guidelines For Issue Of Licence For International Long Distance Service dated 14.12.2005.

- 2.27 It was also observed in the consultation paper<sup>6</sup> on this subject, that internationally either entry fee is not being levied or if levied are set at nominal levels in other jurisdictions. The presence of significant structural barriers, as well as the low entry fee prevalent internationally, favor reduction of entry fee from the present levels.
- 2.28 Moreover, the Access Service segment is the largest authorization in terms of revenue and subscriber base, and the LSA-wise as well as Pan-India entry fee is the highest for this authorization. This segment has witnessed a decline in the number of players, from around 8 players in each licensed service area to 5 by 2018 and further to 4 at present. Since the reduction of entry fee lowers the start-up cost, it will encourage entry and enhance competition, thus further advocating for a reduction of entry fee.
- 2.29 Based on the above discussion, the Authority is of the view that reduction of entry fee might enhance social welfare and quality of service by increasing the competition in the telecom sector. Incidentally, DoT has also expressed the view that entry fee should be reduced from the present levels. Thus, methods of rationalizing the entry fee from the present levels need to be explored.
- 2.30 However, the rationalization exercise must be carried out carefully by ensuring that entry fee should not be set at too low levels. This is necessary to deter non-serious entry as has been witnessed in the past. The internet sector was opened to private operators in 1998. A supportive policy with no entry fee was adopted to promote growth and encourage internet penetration. Internet Service Providers (ISPs) were allowed to offer internet telephony w.e.f. April, 2002 and no entry fee was charged

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<sup>6</sup> [https://www.trai.gov.in/sites/default/files/CP\\_26072022\\_0.pdf](https://www.trai.gov.in/sites/default/files/CP_26072022_0.pdf)

for the same due to which a lot of non-serious entry was observed in this sector during that time. It also partly encouraged grey market operations<sup>7</sup>. The policy encouraged private participation and more than 700 licenses were issued within first 3 years of opening the sector to private participation. However, by 2007, only 389 ISPs remained in the market, out of which only 135 were operational.

- 2.31 Moreover, major authorizations like Access service, NLD and ILD utilize certain essential public resources and hence they must pay a one-time reasonable amount in order to obtain a right to enter such resource intensive markets.
- 2.32 Considering the above reasons, it seems rational that the entry fee may be reduced. However a careful analysis must be conducted to arrive at the level of entry fee for each authorization.
- 2.33 **Accordingly, the Authority recommends that the entry fee should be reduced from the present levels in the UL and UL (VNO) licenses.**

### **Analysis of the issues raised in Q2 and Q6**

- 2.34 Further, it is to be decided whether the reduction should be made for all authorizations within and across licenses. In order to decide on this issue, it is essential to examine the level of competition, especially in the larger authorizations/segments. In this context, the market concentration of the telecom sector was analyzed by using the Herfindahl Hirschman Index (HHI).

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<sup>7</sup> TRAI Recommendations



**Table 2.2**  
**Segment/Authorization wise market analysis: Major segments<sup>8</sup>**

<b>Segment</b>	<b>Access Service</b>	<b>ILD</b>	<b>NLD</b>
No. of players holding $\geq 80\%$ share in market (in terms of revenue)	3	4	4
HHI <sup>9</sup>	2852	2218	2021
Note: The above information is based on financial data for F.Y. 2022-23 submitted by service providers to TRAI			

2.35 It can be inferred from the above table that the market is relatively concentrated for the major service authorizations. The concentration, in terms of revenue, in the case of three major segments lies with few large players. Moreover, considering the HHI value, the segments can be considered as moderately to highly concentrated. Thus, competition must be enhanced in these segments and reducing the entry fee might prove to be a positive step in this regard.

**Table 2.3**  
**Entry fee relative to Revenue for UL authorizations**

	<b>Access Service</b>	<b>ILD</b>	<b>NLD</b>	<b>ISP</b>	<b>VSAT</b>	<b>PMRTS</b>
<b>Entry fee (Rs. in cr.) (National Level)</b>	21 <sup>10</sup>	2.5	2.5	0.3	0.3	0.11
<b>Revenue (Rs. in cr.) (Average operator)</b>	19237	882	1121	213	71	6
<b>Entry Fee as a % of Revenue</b>	0.11%	0.28%	0.22%	0.14%	0.42%	1.83%
Note: The above information is based on financial data for F.Y. 2022-23 submitted by service providers to TRAI						

<sup>8</sup> Authorizations have been categorized as major/larger and smaller on basis of relative revenue shares

<sup>9</sup> The agencies generally consider markets in which the HHI is between 1,500 and 2,500 points to be moderately concentrated, and consider markets in which the HHI is in excess of 2,500 points to be highly concentrated. See U.S. Department of Justice & FTC, Horizontal Merger Guidelines § 5.3 (2010).

<sup>10</sup> Assuming an entity takes authorizations in a sequential manner

2.36 Reducing entry fees for other smaller authorizations might enhance competition in these segments by incentivizing new entrants in the segments. Entry fee constitutes a cost for the entrants and it can be seen from the table 2.3 above that for the major<sup>11</sup> authorizations under UL, the entry fee as a percentage of revenue is relatively lower than that of smaller authorizations such as VSAT and PMRTS. Thus, the burden of entry fee may be higher on the latter. Reducing entry fee only for the major authorizations under UL and not for others, may lead to inconsistency and may not be in the interest of smaller authorizations. Reduction of entry fee for other smaller UL authorizations will ensure uniformity and consistency in approach.

2.37 Moreover, authorizations under UL(VNO) are smaller in terms of capital and revenue. Since these authorizations don't own infrastructure the burden of entry fee relative to capital employed may be higher than their UL counterparts. It may also be analyzed from the table below that entry fee as a percentage of revenue is higher for UL(VNO) authorizations than their UL counterparts. Thus, the burden of entry fee on UL(VNO) authorizations may be higher.

**Table 2.4**  
**Entry fee relative to Revenue for UL(VNO) Authorizations**

				<b>Rs. in crore</b>
<b>Segment</b>	<b>Entry Fee - 10 years</b>	<b>Entry Fee -20 years</b>	<b>Revenue</b>	<b>Entry Fee (20 years) as a % of Revenue</b>
ILD	1.25	2.5	43.1	6%
NLD	1.25	2.5	30.66	8%
Note: The above information is based on financial data for F.Y. 2022-23 submitted by service providers to TRAI				

<sup>11</sup> Authorizations have been categorized as major/larger and smaller on basis of relative revenue shares

2.38 In case of other licenses, the entry fee is being charged for MNP license and captive VSAT. The MNP segment has only 2 players, having annual revenue around Rs. 80 crore each. Services like captive VSAT are not utilized for commercial purposes. Charging a high entry fee might disincentivize the entry of new players in these segments.

2.39 Thus, in order to ensure level playing field, entry fee may be reduced for these licenses as well. The reduction might enhance the competition level in these segments.

2.40 **Accordingly, the Authority recommends that:**

1. **The entry fee should be reduced for various authorizations under UL & UL(VNO), both within each license and across licenses.**
2. **The entry fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) should also be reduced.**

**B. Uniform entry fee for UL and UL (VNO) licenses**

2.41 To examine the issues relating to the charging of a uniform entry fee for UL and UL (VNO) licenses, the following questions were raised in the consultation paper:

**Q4. Should a uniform Entry Fee be charged for each of the authorizations in the UL and UL (VNO) licenses, both within each license and across licenses? Please justify.**

**Q5. What should be the amount of the uniform Entry Fee for various authorizations? Please justify.**

**Comments received from stakeholders on Q4 and Q5**

- 2.42 Majority of the stakeholders have stated that charging a uniform entry fee for authorizations within each license and across licenses is not feasible. They were of the view that both UL & UL(VNO) Licenses are distinct as UL authorizations are allowed to own infrastructure and this is not the case with UL(VNO). Since in UL (VNO) capex and cost of maintenance is lower, the entry fee for UL (VNO) must be half of UL fees. It was also stated that authorizations within license also differ in terms of service area, type of service, financial parameters etc. and hence uniform fees are not feasible. It was further reasoned that since authorizations differ in terms of business models, market shares, technical aspects; charging uniform fee will be discriminatory and lead to non-level playing field.
- 2.43 One of the stakeholders stated that quantum of any fees must be based on the specific costs involved in administering different licences/authorizations.

**Analysis of the issues raised in Q4 and Q5**

- 2.44 Presently, in the UL & UL(VNO) regime, the entry fee in UL(VNO) authorizations is half of the corresponding authorizations of UL. However, since entry fee is paid both at the time of entry and renewal, the effective entry fee is same across licenses since the validity of UL is 20 years whereas validity for UL(VNO) is only 10 years. Since effective entry fee across the UL and UL(VNO) licenses is the same, it can be

further examined whether a uniform entry fee is to be charged for each of the authorizations, within a license.

2.45 It must be noted that certain authorizations like NLD and ILD operate on national area basis, others like ISP-B are limited to telecom circle, whereas authorizations like ISP-C are limited to SSA-level. Even if we consider the major national area authorizations, like Access (including all LSAs), NLD and ILD, they too differ significantly in terms of capital investments, revenue generation etc. as seen in the Tables given above. The relative share of the various authorizations in the total telecom revenue is also distinct, as can be seen from the table below:

**Table 2.5**  
**Segment wise market share**

	<b>Access Service</b>	<b>ILD</b>	<b>NLD</b>	<b>ISP</b>	<b>VSAT</b>	<b>PMRTS</b>
<b>Revenue (Rs. in cr.)</b>	26,9324	14,111	29,154	20,416	426	49
<b>Market share</b>	80.76%	4.23%	8.74%	6.12%	0.13%	0.01%
Note: The above information is based on financial data for F.Y. 2022-23 submitted by service providers to TRAI						

2.46 From the above discussion, it can be summarized that there are variations in terms of telecom resources used, market shares, capital employed, revenue etc., amongst the various service authorizations within the licenses. Moreover, the number of service providers, level of competition, stages of development of industry etc. are also different for the different authorizations. All these are major challenges in charging a uniform entry fee across authorizations. Considering the national Level authorizations under UL & UL(VNO), a wide variation in the entry fee is observed as tabulated below:

**Table 2.6**

**Entry fee analysis: National Area**

<b>S. No.</b>	<b>Entry Fee (National Area)</b>	<b>Value (UL) (Rs. in cr.)</b>	<b>Value (UL)(VNO) (Rs. in cr.)</b>
1	Maximum	15	7.5
2	Minimum	0.3	0.15
3	Range	14.7	7.35
4	<b>Mean fee</b>	<b>2.86</b>	<b>1.43</b>
5	<b>Median Fee</b>	<b>1</b>	<b>0.50</b>

2.47 It can be inferred that employing some statistical methods like averages for arriving at a uniform fee, such as mean or median, will benefit the relatively larger authorizations by lowering the entry fee, but will be against the interest of relatively smaller authorizations such as VSAT, Machine to Machine, Audiotex etc. The relatively smaller authorizations have a lower revenue generation, and increasing the entry fee may increase the financial burden on these authorizations and disincentivize entry in these segments. Hence, charging a uniform entry fee may not prove to be a “Win-Win” situation for all authorizations. It may tend to benefit the relatively larger authorizations at the expense of smaller ones. Therefore, such an approach may not be rational as well. Thus, considering the above, Authority is of the view that charging a uniform entry fee for all authorizations may not be appropriate.

2.48 As noted in earlier paras, the effective entry fee for UL & UL(VNO) is the same, despite the fact that the corresponding authorizations in both licenses differ in terms of capital employed, infrastructure and other financial parameters. UL(VNO) authorizations do not own their infrastructure and presently their revenue generation is lower than that

of corresponding authorizations in UL, as in case of ILD and NLD (as shown in Table 2.5 above). Therefore, charging an entry fee similar to that of UL may act as a significant barrier to entry in these authorizations by increasing start-up costs. Therefore, the Authority is of the view that methods of rationalizing entry fee pertaining to UL(VNO) authorizations need to be explored so that even after adjusting for validity of the license, the entry fee for UL (VNO) is less than that of UL, considering the significant structural and financial differences across licenses.

2.49 **Therefore, the Authority recommends that uniform entry fee across all authorizations both within each license and across licenses should not be levied.**

### **C. Methodology for arriving at the rationalized entry fee**

2.50 For arriving at a rationalized entry fee for the various authorizations, the following questions were raised in the consultation paper: -

**Q3. What should be the methodology for arriving at the rationalized entry fee and/ or other terms and conditions for each authorization? Please provide the detailed rationale for each authorization.**

### **Comments received from stakeholders on Q3**

2.51 A majority of the stakeholders have stated that entry fee should be kept at a minimal amount and charged as a nominal administrative/ registration/ processing fee only to deter entry and cover regulatory costs etc. One stakeholder stated that there should be zero Entry-fee for both the UL and UL (VNO) licenses.

- 2.52 Another stakeholder stated that the amount of entry fee should be arrived by benchmarking entry fees with other jurisdictions having high ranks in ITU Regulatory ranking, Global Competitive Index, Digital Readiness Index etc.
- 2.53 One stakeholder stated that entry fee should be rationalized by 50%. Another stakeholder stated that one time Processing Fee/Registration Fee of Rs.10,000 should be levied across all UL-VNO authorizations.

### **Analysis with of the issues raised in Q3**

- 2.54 The method for arriving at rationalized entry fee for each authorization must consider the relevant market conditions such as the number of licencees, level of competition, capital requirements to operate, and other financial and market parameters.
- 2.55 As such, the level of Entry Fee in each authorization has been determined keeping in mind the unique characteristics of each market segment, while trying to bring some method to the rationalization of Entry Fee. Where a reduction of entry fees has been proposed, the reduction varies across various authorizations/ licenses. The reasons behind this include the following:
- The rationalized level of entry fee cannot be determined by a mathematical model or formula that is uniformly applicable to each market segment.
  - Since internationally either no entry fee is charged or is set at very low levels, fees could not be determined by international benchmarking that takes care of the unique characteristics of the Indian market.
  - The method of rationalization is based on various authorization-specific parameters such as number of players, level of competition, the specific nature of the segment, financial and market parameters etc. The choice



of the parameters as well as weight given to each parameter, for arriving at the rationalized value of entry fee is also variable.

2.56 The Authority has arrived at the rationalized value of entry fee after analyzing various authorization specific parameters and other aspects. The reasons for rationalizing the entry fee have been given against each authorization separately.

2.57 The reductions in Entry fees have been recommended to lower the cost of entry for the service providers, thereby incentivizing entry of new players. It is expected to enhance competition in the sector and attract investment in the sector.

2.58 The entry fee for various authorizations as well as the rationale for arriving at that entry fee is discussed below:

## **UL Authorizations**

### **Machine to Machine(M2M) (A/B/C)**

2.59 Machine to Machine communications, often termed as M2M/IoT is going to be the next generation of internet revolution, connecting more and more devices on Internet. M2M communications refer to automated applications which involve machines or devices communicating through a network without human intervention.

2.60 M2M is expected to revolutionize the performance of various sectors, businesses and services, by providing automation and intelligence to the end devices, thus positively contributing to the goals of Industry 4.0. It may be applied to robots and conveyor belts on the factory floor, to tractors and irrigation on the farm, from home appliances to health

monitoring etc. It can bring substantial tangible social and economic benefits by giving more efficient and effective services to the citizens<sup>12</sup>.

- 2.61 TRAI vide its Recommendations On “Spectrum, Roaming and QoS related requirements in Machine-to-Machine (M2M) Communications” dated 05.09.2017 recommended an entry fee of Rs. 30 Lakh/2 Lakh/20 thousand) for M2M(A/B/C) authorizations, respectively. This was in line with the “M2M Service Providers Registration–Draft Guidelines May 2016” as envisaged by DoT.
- 2.62 Currently the UL regime prescribes an Entry Fee of (Rs30 Lakh/2 Lakh/20 thousand) for M2M(A/B/C) authorizations, respectively. It is pertinent to note that till date, no service provider has taken the M2M license.
- 2.63 Considering the benefits it is expected to create, it is necessary that easy entry of the service providers must be encouraged in this segment. One of the mechanisms to increase the entry of new players in this segment is by incentivizing entry, by lowering the cost through entry fee reduction.
- 2.64 **Thus, the Authority recommends that no entry fee should be charged for M2M (A/B/C) authorizations.**

#### **Audio conferencing/ Audiotex/ Voice mail service**

- 2.65 TRAI vide its recommendation dated 29<sup>th</sup> December 2000 on Voice Mail/Audiotex services recommended that no entry fee should be charged for this service.

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<sup>12</sup> <https://dot.gov.in/machine-machine-communications>

- 2.66 However, TRAI vide Recommendations on Licensing framework for Audio Conferencing/Audiotex/ Voice Mail Services dated 16<sup>th</sup> December 2016 recommended an entry fee of Rs. 10 lakh.
- 2.67 TRAI recommended no entry fee and no license fee for Voice Mail and Audiotex service in the year 2000 because they were considered to be 'Content Service'. However, multi-party audio conferencing was allowed vide license amendment in 2004. In its recommendations of 2016, the Authority considered that audioconferencing was the main service being provided using this license and it was not a 'Content Service' but a real time communication service using the PSTN/PLMN resources of access service providers. For these reasons, the Authority recommended an entry fee of Rs. 10 Lakh in 2016.
- 2.68 However, presently various apps such as Spike, LoopUp etc. provide Audio Conferencing facility. Since these apps are not under the license regime, no entry fee is applicable on them. This leads to a non-level playing field as the UL-licensed audio conferencing service has to pay an entry fee of Rs. 10 Lakh. This may disincentivize entry into this segment. As of 31<sup>st</sup> December 2022, there are only 5 licensees in this authorization.
- 2.69 **Thus, considering the above, the Authority recommends that no entry fee should be charged for Audio conferencing/ Audiotex/ Voice mail service.**

## **PMRTS**

- 2.70 PMRTS has relatively small market in the country. Limited customer base is attributed to specific scope of the service meant for one-to-one and one-to-many radio communication within a closed user group

(CUG). As on 31.12.2022, there were around 65,000 subscribers of PMRTS in the country.

- 2.71 There are 10 PMRTS licensed service providers under UL regime, with only 2 service providers operating in all 22 LSAs. In order to enhance competition, entry by existing service providers into all the telecom circles should be encouraged, and reduction in entry fee may prove to be a positive step in this direction.
- 2.72 Moreover, the segment is small even in terms of revenue. The annual gross revenue of the segment is around Rs. 40 crore only.
- 2.73 TRAI in its Recommendations on licensing issues relating to Public Mobile Radio Trunking Service Providers (PMRTSPs) dated 18<sup>th</sup> December 2000 recommended no entry fee for this service. However, existing UL regime prescribes an entry fee of Rs. 50 thousand per telecom circle for this service.
- 2.74 Considering the limited number of significant players, limited subscriber base and revenue potential of the segment, the authority is of the view that competition in this segment may be promoted through a substantial reduction in entry fee. However it must be noted that the entry fee may be reduced only up to a level of Rs. 20,000 per telecom circle as further reduction will make entry fee lower than the application fee of Rs. 10,000 in the case of PMRTS-UL(VNO) (as recommended in subsequent sections)
- 2.75 **In view of the above, the Authority recommends that entry fee for PMRTS authorization should be reduced from Rs. 50 thousand (per telecom circle/ Metro area) to Rs. 20 thousand (per telecom circle/ Metro area).**

## **Global Mobile Personal Communication by Satellite (GMPCS)**

- 2.76 TRAI in its Recommendations of License Fee and Terms and Conditions of the License Agreement for GMPCS Service dated 15<sup>th</sup> November 1999 recommended an entry fee of Rs. 1 crore.
- 2.77 Presently there is only one operational player in this segment and the annual revenue in this segment is also relatively low.
- 2.78 However, it may be noted that two new service providers have been granted license in this segment and more service providers are expected to enter this market segment in the future.
- 2.79 Presently, the segment is relatively small, however, in future the GMPCS segment is expected to expand for the provision of satellite broadband services. In order to ensure a level-playing field between the prospective entrants in this authorization and the entrants who have acquired this authorization in the very recent past, the entry fee for this segment may not be set too low. Thus, it will be appropriate that the entry fee for GMPCS may be kept the same as present.
- 2.80 **In view of the above, the Authority recommends that entry fee for GMPCS authorization must be kept at the present level Rs. 1 crore for a national level license.**

## **VSAT**

- 2.81 The scope of this service is to provide data connectivity between various sites scattered within territorial boundary of India using Very Small

Aperture Terminals (VSATs). However, these sites should form part of a Closed User Group (CUG)<sup>13</sup>.

2.82 TRAI vide its Recommendation on Fresh Licenses for VSAT Service dated 18.10.2000 recommended an entry fee of Rs. 30 Lakh considering the fact that VSAT service is limited to Closed User Groups (CUGs).

2.83 It may be noted that VSAT in combination with ISP authorization can be used to provide space-based communication services, including satellite broadband services. Hence, as discussed above in the case of GMPCS, the Authority is of the view that the Entry Fee for VSAT authorization may be kept the same as present.

2.84 **In view of the above, the Authority recommends that entry fee for VSAT authorization must be kept at the present level Rs. 30 Lakh for a national level license.**

### **Access Services segment**

2.85 This segment is the largest segment in terms of revenue and subscriber base. However, over the years the number of service providers in this segment have declined and there is noticeable market concentration in the segment. As indicated above, the HHI for this segment is high.

2.86 Considering the exponential rise in demand for data services and for the proliferation of 5G technology, in consumer interest and for the orderly growth of the sector, it is essential that competition be enhanced in this segment. An entry fee reduction may help achieve this objective.

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<sup>13</sup> <https://dot.gov.in/data-services/2581>

- 2.87 Due to the large subscriber base in this segment, an increase in competition will enhance demand elasticity and contribute to a rise in overall consumer utility. Increase in competition will also lead to a better Quality of Service.
- 2.88 The aforementioned points favor reasonable reduction of entry fee in this segment. However, it is important to consider the vast scope of this license. The licensee can provide internet services, broadband services and triple play i.e. voice, video and data. The licensee can provide various other services including those for which otherwise a separate license would have been required such as:
- a) The Licensee may provide leased circuits within its respective service area.
  - b) The Licensee may also provide Voice Mail/Audiotex/Unified Messaging services, Video Conferencing over its network to the subscribers falling within its service area on non-discriminatory basis.
- 2.89 Thereby considering the vast scope of this license it becomes necessary that non serious entry in this segment is deterred, hence entry fee in the access segment may not be set at too low levels. Thus the authority is of the view that a 50% reduction in this segment seems reasonable.
- 2.90 **In view of the above, the Authority recommends that in case of access service, the entry fee for telecom circle/ metro area should be reduced from Rs. 1 crore to Rs. 50 Lakh. For J&K and North east, the entry fee should be reduced from Rs. 0.5 crore to Rs. 25 lakh.**

## **National Long Distance (NLD) and International Long Distance (ILD)**

- 2.91 As highlighted above, these NLD and ILD segments are capital intensive and other barriers to entry in these segments are also high.
- 2.92 The huge investments required in optical fibre, cable landing stations etc. in case of NLD and ILD may itself act as a force to deter non-serious entry.
- 2.93 It has been noted in Table 2.2 above that the market concentration in these segments is high. The HHI values for these segments are greater than 2000. Entry fee reduction may prove to be a positive step in enhancing competition in these segments.
- 2.94 Increased competition in NLD segment may also lower the cost for ISPs that lease/acquire bandwidths from NLDOs, leading to further benefits due to linkage effect.
- 2.95 With the increase in the Data centers, increasing competition in the NLD segment is essential as increased competition may lead to lower prices for services such as bandwidth and connectivity as well as improvement in quality of service. Data centers require significant amounts of bandwidth to transmit and receive data. If there is more competition among network providers, data center operators can be encouraged from cost-efficient and competitive pricing for their connectivity needs, reducing their operational expenses.
- 2.96 The government in the past has reduced entry fee for these segments as it was of the view that the reduction would promote growth and enhance competition.



- 2.97 It must be noted that presently under the UL regime the level of entry fee is the same for both NLD and ILD.
- 2.98 It is pertinent to note that the entry fee for Access service license has been set at Rs. 50 Lakh per telecom circle. Considering that NLD and ILD services have a narrow scope relative to access service, and are also smaller in market size, the authority is of the view that an entry fee of Rs. 50 Lakh for a national level NLD and ILD license seems reasonable.
- 2.99 **In view of the above, the Authority recommends that entry fee for both NLD and ILD authorizations should be reduced from Rs. 2.5 crore to Rs. 50 lakh.**

#### **ISP (“A”/ “B”/ “C”)**

##### **ISP “C”**

- 2.100 ISP “C” Licenses operate in a limited area. In terms of revenue prospects this segment is relatively small. The largest service provider in this segment has an annual revenue of under Rs. 3 crore.
- 2.101 As cited above, the low fees led to non-serious entry in the ISP sector. However, it must be noted that presently, ISP “C” authorizations are already paying an application fee of Rs. 10,000 which is equal to that of relatively larger authorizations.
- 2.102 **Thus, considering the above, the Authority recommends no entry fee should be charged for ISP “C” authorizations.**

## **ISP “B”**

- 2.103 In the ISP “B” market segment, there are only a few large players in terms of revenue, holding 80% of the total revenue share.
- 2.104 Thus, concentration in this segment is high. Moreover, the aforementioned players are operating in one or two LSAs only. Entry into other LSAs must be promoted in this market segment.
- 2.105 It is pertinent to mention that in order to promote the growth of internet service providers the Authority has recommended certain steps earlier also. TRAI in its Recommendations on Roadmap to Promote Broadband Connectivity and Enhanced Broadband Speed dated 31.08.2021 recommended license fee exemption for the eligible internet service licensees in an LSA.
- 2.106 Competition in this segment needs to be promoted and entry fee reduction may prove to be a positive step in this regard.
- 2.107 **Thus, considering the above, the Authority recommends that entry fee for ISP “B” should be reduced from Rs. 2 lakh to Rs. 50 thousand per telecom circle and Rs. 25 thousand for J&K and North-East each.**

## **ISP “A”**

- 2.108 Based on the above recommended entry fee for ISP-B, the total entry fee for an ISP-B service provider operating in all 22 LSAs sums up to Rs. 10.5 Lakh. In order to maintain parity between ISP-B and ISP-A service providers, the Authority is of the view that entry fee of Rs.10 Lakh for an ISP-A license seems reasonable.

2.109 **Considering the above recommended entry for ISP “B”, the Authority recommends that entry fee for ISP “A” should be reduced from Rs. 30 lakh to Rs. 10 lakh.**

**D. Issue with the Present Ceiling (Maximum entry fee)**

2.110 At present there is a ceiling of Rs. 15 crore for UL and 7.5 crore under UL(VNO). However, this ceiling is applicable only if an entity applies for all the authorizations simultaneously. In case an entity applies for authorizations in a sequential manner under UL & UL(VNO), it ends up paying Rs. 28.11 crore and Rs. 14.51 crore respectively, which is around twice the ceiling.

2.111 This approach does not seem to be rational, as entities applying for all the authorizations at one time will be paying a lower entry fee than entities applying for a limited number of authorizations and then expanding their authorizations. A new market entrant applying for limited authorizations initially, might also be disincentivized for taking up additional authorizations at a later stage. The rationalization exercise may not be complete unless this discrepancy is removed.

2.112 **In view of the same, the Authority recommends that the existing ceiling of Rs. 15 crore and Rs. 7.5 crore should be removed for both UL as well UL(VNO) Authorizations.**

2.113 **The Authority recommends the following entry fee for UL authorizations:**

**Table 2.7**  
**Entry fee under UL**

<b>S.No.</b>	<b>Service</b>	<b>Present Entry Fee (Rs. in cr.)</b>	<b>Recommended Entry Fee (Rs. in cr.)</b>
1	<b>UL (All services)</b>	<b>15.000</b>	<b>Summation of entry fee for individual authorizations</b>
<b>Service Authorization wise requirements</b>			
1.	Access Service (Telecom Circle / Metro Area)	1.000 (0.5 for NE & J&K)	<b>0.5 (0.25 for NE &amp; J&amp;K)</b>
2.	NLD (National Area)	2.500	<b>0.5</b>
3.	ILD (National Area)	2.500	<b>0.5</b>
4.	VSAT (National Area)	0.300	<b>0.3</b>
5.	PMRTS (Telecom circle/Metro)	0.005	<b>0.002</b>
6.	GMPCS (National Area)	1.000	<b>1.000</b>
7.	ISP "A" (National Area)	0.300	<b>0.1</b>
8.	ISP "B" (Telecom circle/Metro Area)	0.020	<b>0.005 0.0025 (J&amp;K and NE)</b>
9.	ISP "C" (SSA)	0.002	<b>Nil</b>
10.	Audio conferencing/ Audiotex/ Voice mail service	0.100	<b>Nil</b>
11.	Machine to Machine 'A' (National Area)	0.30	<b>Nil</b>
12.	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.02	<b>Nil</b>
13.	Machine to Machine 'C' (SSA)	0.002	<b>Nil</b>

**E. Other issues with the method of levying entry fee**

**a) Excess Financial Burden**

2.114 An issue with the present regime of Entry Fees that requires rationalization is that at present entry fees are paid both at the time of

entry as well as the time of renewal. It is understood that an entity that has operated in the market for a specific validity/time period has proved its seriousness in providing a service. Paying an entry fee even at time of renewal may lead to extra financial burden on existing players.

**b) The Co-Terminus Validity issue**

2.115 Also, it may be noted that the validity of license under UL and UL(VNO) are 20 and 10 years respectively, from the effective date of the first authorization in the Unified License. This would imply that authorization for services added at a later date would be valid only for the remaining period, without any pro rata rebate in entry fee etc. This approach seems irrational and might disincentivize uptake of later authorizations. The terms & conditions of the license must be modified to handle this anomaly.

**c) The UL(VNO) Fee**

2.116 Presently, in the UL & UL(VNO) regime, the entry fee in UL(VNO) authorizations is half that of corresponding authorizations in case of that of UL. However, since entry fee is paid both at the time of entry and renewal the effective entry fee is same across licenses since the validity of UL is 20 years whereas the validity for UL(VNO) is 10 years. Thus, the corresponding authorizations under the UL and UL(VNO) are effectively paying the same entry fee despite the fact that their capital investment and financial parameters are distinct.

2.117 UL(VNO) do not own their infrastructure like UL and their revenue generation is low compared to UL, thereby imposing extra burden on UL(VNO) authorizations. The number of service providers under UL(VNO) authorizations are also low as compared to UL and hence it necessary to promote competition in these segments.

2.118 The process of rationalization of entry fee must take care of these, prima facie, issues in the present regime of Entry Fees.

2.119 One possible approach to take care of the impact of present issues in the method of levying entry fee is that the entry fee may only be levied at the time of entry and not at time of renewal. This approach will take care of all the three issues discussed above.

a) It will help mitigate the financial burden on the existing players, since at the time of renewal only application fees will have to be paid. Some existing stakeholders have stated that reducing entry fee will lead to non-level playing field between the existing players and new entrants. However, levying entry fee only at time of initial entry reduce the extent of this problem as existing players would not be required to pay entry fee at the time of renewal.

b) It will also neutralize the non-level playing field between players opting for all authorizations simultaneously and those opting for the authorizations in a sequential manner, arising due to the co-terminus validity.

c) It will restore the difference in the effective fees (adjusted for validity) for UL(VNO) authorizations relative to UL authorizations. The UL(VNO) will not have to pay the entry fees again after the license expiry at 10 years thus, effectively paying half the entry fee compared to their UL counterparts.

2.120 **Considering the above, the Authority is of the view that the present formula where entry fee of UL(VNO) is half of its corresponding UL Authorizations should continue for certain UL(VNO) Authorizations.**

2.121 As discussed above, the demand for data services is witnessing an exponential rise. The major authorizations in the UL such as Access service, NLD, ILD, GMPCS and VSAT have a prominent role to play in the expansion of data services. Orderly growth and enhanced competition in the access segment is expected to pace up the proliferation of 5G services, whereas enhancing competition in the NLD segment is expected to provide affordable and improved quality bandwidths for the development of the data centers.

2.122 It is also essential that the entry of VNOs in the major authorizations is also promoted. The enhanced competition and growth of VNOs, especially in these segments is expected to increase broadband penetration and adoption of broadband services, and increase the rural tele-density, thereby contributing significantly to the Digital India program<sup>14</sup>.

2.123 Internationally this segment has a significant number of players that occupy significant market share, as may be noted in the countries below:

- The United States Mobile Virtual Network Operator (MVNO) Market was valued at USD 13.15 billion in 2020, and it is expected to reach USD 16.24 billion by 2026<sup>15</sup>. The United States has four major carriers, which provide network infrastructure to 139 MVNOs who serve 36 million active subscribers as of April 2019, as reported by GSMA<sup>16</sup>

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<sup>14</sup> <https://broadbandindiaforum.in/wp-content/uploads/2020/12/White-Paper-on-VNOs-14-May-18-4-ONLINE.pdf>

<sup>15</sup> <https://www.mordorintelligence.com/industry-reports/united-states-mobile-virtual-network-operator-mvno-market>

<sup>16</sup> <https://www.businesswire.com/news/home/20210504006094/en/United-States-Mobile-Virtual-Network-Operator-MVNO-Market-Growth-Trends-and-Forecasts-Report-2021-2026---ResearchAndMarkets.com>

- The European mobile virtual network operator market revenue stood at \$27,748.1 million in 2020, and it is expected to surge to \$48,762.8 million by 2030<sup>17</sup>. There are around 140 MVNOs in Germany<sup>18</sup>.
- There are around 40 MVNOs in Australia<sup>19</sup> with a subscriber base of around 2 million.
- There are around 80 MVNOs in Japan.<sup>20</sup>

2.124 However, in case of India, it must be noted that the ever since its introduction, the VNO service has not taken off. The number of VNO operators generating significant revenue and having a significant market /subscriber base are quite low.

2.125 Considering the benefits VNOs provide in terms of increasing internet penetration in rural and remote areas and to make the Indian VNO market competitive, it becomes essential that the growth and uptake of the service especially in the major segments must be enhanced for the UL(VNO)s. One mechanism to achieve this objective can be in the form of a reduction in entry fee.

2.126 Considering the above, the Authority is of the view that for Access Service, NLD, ILD, GMPCS and VSAT authorizations under UL(VNO), the entry fee should be reduced further in comparison with the respective UL authorisations.

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<sup>17</sup> <https://www.businesswire.com/news/home/20220117005334/en/Europe-MVNO-Mobile-Virtual-Network-Operator-Market-Report-2021---Focus-On-Value-Added-Services-Instead-of-Price-Differentiation---ResearchAndMarkets.com>

<sup>18</sup> <https://www.psmarketresearch.com/market-analysis/europe-mvno-market#:~:text=In%20addition%2C%20the%20presence%20of,the%20market%20in%20the%20country.>

<sup>19</sup> <https://www.apnsettings.org/australia/list-of-mobile-virtual-network-operators-in-australia/>

<sup>20</sup> <https://academic-accelerator.com/encyclopedia/mobile-virtual-network-operator>



2.127 **The Authority recommends the following entry fee for these authorizations:**

- a) **The entry fee for Access Service (UL-VNO) should be reduced from Rs. 50 Lakh per telecom circle/Metro (Rs. 25 Lakh for J&K and North east) to Rs. 12.5 Lakh per telecom circle/Metro (Rs. 6.25 Lakh for J&K and North east)**
- b) **The entry fee for NLD(UL-VNO) authorization should be reduced from Rs. 1.25 crore to Rs. 12.5 lakh.**
- c) **The entry fee for ILD(UL-VNO) authorization should be reduced from Rs. 1.25 crore to Rs. 12.5 lakh.**
- d) **The entry fee for GMPCS authorization should be reduced from Rs. 50 Lakh to Rs. 12.5 lakh.**
- e) **The entry fee for VSAT authorization should be reduced from Rs. 15 Lakh to Rs. 7.5 lakh.**

2.128 Moreover, there are two authorizations in UL(VNO) that do not have corresponding authorization in UL, namely, Access Service category B and Resale of IPLC. For these authorizations, entry fee needs to be determined separately.

- a) **Access Service Category-B** - The Service Area of Access Service Category-B includes the geographical area of a district of a State/ Union Territory only. In terms of service area, it can be considered similar to Category-C licenses such as ISP “C” and M2M “C”, which operate at SSA level. For Category-C license, “Nil” entry fee has been recommended. Given the limited area of operation and the fact that VNOs don’t own their infrastructure **the Authority recommends that no entry fee should be charged for Access Service Category-B under UL(VNO).**

**b) Resale of IPLC-** The Reseller can provide end-to-end IPLC between India and country of destination for any capacity denomination. For providing the IPLC service, the Reseller shall take the IPLC from International Long Distance (ILD) Service Providers licensed under Section 4 of the India Telegraph Act, 1885. Since entry fee for ILD as well as ILD(VNO) has been revised downwards for promoting competition in the ILD segment, same principle shall be applied to the Resale of IPLC segment as well. **Thus, the Authority recommends that the entry fee for Resale of IPLC should be reduced from Rs. 50 Lakh to Rs. 5 Lakh.**

2.129 **Therefore, the Authority recommends that entry fee should be levied only at the time of entry and not at the time of renewal of license.**

2.130 **The Authority recommends the entry fee for UL(VNO) authorizations as given below:**

**Table 2.8**  
**Entry fee under UL(VNO)**

S.No.	Service Authorization(s) (VNO)	Entry Fee (Rs. in cr.)	Recommended Entry Fee (Rs. in cr.)
1.	UL(VNO-All services)	7.5	<b>Summation of entry fee for individual authorizations</b>
<b>Service Authorization wise requirements</b>			
1.	Access Service (Telecom Circle / Metro Area)	0.5 (0.25 for NE & J&K)	<b>0.125 (0.0625 for NE &amp; J&amp;K)</b>
2.	NLD (National Area)	1.25	<b>0.125</b>
3.	ILD (National Area)	1.25	<b>0.125</b>
4.	VSAT (National Area)	0.15	<b>0.075</b>

5.	PMRTS (Telecom circle/Metro)	0.0025	<b>0.001</b>
6.	GMPCS (National Area)	0.5	<b>0.125</b>
7.	ISP "A" (National Area)	0.15	<b>0.05</b>
8.	ISP "B" (Telecom circle/Metro Area)	0.010	<b>0.0025 0.00125 (J&amp;K and NE)</b>
9.	ISP "C" (SSA)	0.001	<b>Nil</b>
10.	Resale of IPLC	0.5	<b>0.05</b>
11.	Access Service Cat B	0.0165	<b>Nil</b>
12.	Machine to Machine 'A' (National Area)	0.150	<b>Nil</b>
13.	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.010	<b>Nil</b>
14.	Machine to Machine 'C' (SSA)	0.001	<b>Nil</b>

**F. Entry fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO)**

2.131 Presently, for other licenses/ authorizations, the entry fee is applicable on MNP license and Captive VSAT license. The same is discussed in subsequent paragraphs.

**MNP license**

2.132 The MNP segment consists only 2 players. Public communications services like data or voice are not provided by these operators.

2.133 This service allows users to switch telecom operators without changing their existing phone numbers. Smooth functioning of the portability process must be enhanced as it has a positive impact on consumers demand elasticity. Therefore, more service providers must be incentivized to enter this segment. Entry Fee reduction will be a positive step in this regard.

- 2.134 The revenue source for these service providers is only the per port transaction charge received from the Access Providers. They are dependent on the porting volumes alone to recover their cost and earn profits.
- 2.135 TRAI vide its Recommendations on Full Mobile Number Portability dated 25.09.2013 recommended **no increase** in entry fee from **Rs. 1 crore**, which was the entry fee levied by DoT on MNP licenses issues in 2009. However, as discussed above, Authority is of the view that the fee should be reduced to increase competition in the segment.
- 2.136 **In view of the above, the Authority recommends that entry fee for MNP license should be reduced from Rs. 1 crore to Rs. 50 lakh.**

### **Captive VSAT license**

- 2.137 TRAI vide its Recommendations on 'Captive VSAT CUG Policy issues' dated 18.07.2017 recommended to reduce the entry fee for Captive VSAT from Rs. 30 Lakh to Rs. 15 Lakh, based on the view that these networks are not used for commercial purposes and the licensee does not generate any revenue directly.
- 2.138 Services like Captive VSAT are utilized only for the captive use of the licensee.
- 2.139 The service requires spectrum to operate. As such, the investment in satellite resources and spectrum may itself act as a force to deter entry. As such, a further reduction of 50% in this segment seems reasonable.

2.140 **In view of the above, the Authority recommends that entry fee for Captive VSAT license should be reduced from Rs. 15 Lakh to Rs. 7.5 Lakh.**

2.141 **The Authority also recommends that for licenses/ authorizations other than UL and UL (VNO), the Entry fee should be levied only at the time of entry and not at the time of renewal of license.**

#### **G. Issue of Minimum License Fee**

2.142 It is pertinent to note that presently minimum license fee is equal to 10% of Entry fee. However, for certain authorizations, the Authority has recommended “Nil” entry fee, which in turn may lead to zero minimum license fee for these authorizations.

2.143 Thus, for authorizations where ‘Nil’ entry fee is being recommended, the minimum license fee of such authorizations will be 10% of the existing entry fee. **Accordingly, for authorizations with ‘Nil’ entry fee, the Authority recommends the minimum license fee as given below:**

**Table 2.9**  
**Amount of Minimum License Fee**

<b>S. No.</b>	<b>License/Authorization</b>	<b>Minimum license Fee (Rs. in cr.)</b>
<b>UL</b>		
1.	M2M-A (National Area)	<b>0.03</b>
2.	M2M-B (Telecom Circle/ Metro Area)	<b>0.002</b>
3.	M2M-C (SSA)	<b>0.0002</b>
4.	ISP-C (SSA)	<b>0.0002</b>

5.	Audio conferencing/ Audiotex/ Voice mail service	<b>0.01</b>
<b>UL-VNO</b>		
1.	M2M-A (National Area)	<b>0.015</b>
2.	M2M-B (Telecom Circle/ Metro Area)	<b>0.001</b>
3.	M2M-C (SSA)	<b>0.0001</b>
4.	ISP-C (SSA)	<b>0.0001</b>
5.	Access Service – Category B	<b>0.00165</b>

## Chapter-III

### BANK GUARANTEES

- 3.1 A bank guarantee (BG) is a type of financial backstop offered by a lending institution. The bank guarantee means that the lender will ensure that the liabilities of a debtor will be met. In other words, if the debtor fails to settle a debt, the bank will cover it.<sup>21</sup> According to the RBI, the bank guarantee is a commitment made by the issuing bank to make payment to the beneficiary. According to the Reserve Bank of India (RBI)<sup>22</sup>, the bank guarantee is a commitment made by the issuing bank to make payment to the beneficiary in case of default by the creditor.
- 3.2 Thus, bank guarantee is a useful instrument to safeguard the interests of the Government as it ensures that the licensee pays its dues on time and fulfill their obligations as per the terms and conditions prescribed in the license agreement.
- 3.3 Under the present Telecom License regime, there are two types of bank guarantees i.e. Financial Bank Guarantee (FBG) and Performance Bank Guarantee (PBG). The FBG covers the liabilities in respect of license fee and other dues not otherwise securitized, while as the PBG covers the violation of license conditions and ensures the performance under the license agreement.
- 3.4 After the decision of telecom reforms taken by Union Cabinet in September 2021<sup>23</sup>, the amount of both the BGs have been reduced by 80% subsequent to the amendments issued by DoT across various licenses.

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<sup>21</sup> <https://www.investopedia.com/terms/b/bankguarantee.asp>

<sup>22</sup> [https://m.rbi.org.in/scripts/BS\\_ViewMasCirculardetails.aspx?id=9813#1](https://m.rbi.org.in/scripts/BS_ViewMasCirculardetails.aspx?id=9813#1)

<sup>23</sup> <https://pib.gov.in/PressReleasePage.aspx?PRID=1755086>

- 3.5 According to the DoT amendments issued in October 2021, the telecom licensees are required to submit, separately for each service and service area, a PBG for the prescribed amount subject to a maximum of Rs. 44 crore for all services under UL, instead of the earlier Rs. 220 crore. The initial FBG is made to a maximum of Rs. 8.8 crore for all services under UL instead of Rs. 44 crore earlier. Thereafter, this FBG is equivalent to 20% of the estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). Earlier, the FBG was equivalent to the estimated sum payable equivalent to License fee for two quarters and other dues not otherwise securitized. The detailed amendments made in UL agreement in respect of Bank Guarantees is mentioned in **Annexure-II**. The amount of FBG under UL and UL (VNO) authorization wise are given at **Annexure-III** and **Annexure-IV** respectively. Under UL(VNOs), there is no roll-out obligation for the service providers, therefore, the provision of PBG is not applicable for these licensees. The amount of PBG under UL authorization wise is given at **Annexure-III**.
- 3.6 Thereupon, DoT vide its reference dated 3<sup>rd</sup> March 2022 on ‘Rationalization of Entry Fees and Bank Guarantees in Unified License (UL)/ Unified License (Virtual Network Operators) License’ mentioned that *“As per current Unified License (UL)/ Unified License (Virtual Network Operator) regime there is a provision of different Entry Fees and two separate bank guarantees (BGs) i.e. Financial Bank Guarantee (FBG) and Performance Bank Guarantee (PBG) for each service authorization. The Department is of the view that the Entry Fees should be reduced and made uniform across all authorizations. In case of BGs, both FBG & PBG should be merged and amount of single BG may be prescribed for each authorization. Therefore, TRAI is requested to submit its recommendations under section 11(1)(a) of TRAI Act, 1997 (as amended) on this issue”*.



## **A. Practice of Bank Guarantees**

3.7 As per Unified License agreement, the bank guarantees are defined as follows: -

### **“21. BANK GUARANTEES:**

#### **21.1 Performance Bank Guarantee:**

*Performance Bank Guarantee (PBG) in prescribed format at Annexure-III of this license agreement shall be submitted separately for each service and service area for the amount as per ....., subject to a maximum of Rs 44 Crore initially, before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any scheduled bank or public financial institution duly authorized to issue such bank guarantee, to cover violation of license conditions and to ensure the performance under the license agreement including compliance of instructions issued by the Licensor from time to time. The PBGs shall be maintained and kept valid by the licensee during the entire currency of the license agreement. However, the Licensor may increase the value of PBGs whenever any demand is raised for non-compliance of terms and conditions of License/authorization to the extent it remains un-securitized by the existing PBGs, which shall be maintained till clearance of such demand by the licensee.*

#### **21.2 Financial Bank Guarantee:**

*The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area for the amount as per ..., subject to a maximum of Rs 8.8 Crore initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any Scheduled Bank or Public Financial Institution duly*

*authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure IV of this license agreement. Subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor and shall be renewed from time to time.*

*21.3 Initially, the Bank Guarantees (FBG as well as PBG) shall be valid for a period of one year and shall be renewed from time to time. The Licensee, on its own, shall extend the validity period of the Bank Guarantees at least one month prior to date of its expiry without any demand or notice from the Licensor on year to year basis. Any failure to do so, shall amount to violation of the terms of the License and entitle the Licensor to encash the Bank Guarantees and to convert into a cash security without any reference to the Licensee at his risk and cost. No interest or compensation whatsoever shall be payable by the Licensor on such encashment.”*

- 3.8 In case of Unified License (Virtual Network Operator) agreement, the bank guarantees are defined as follows: -

**“21. BANK GUARANTEES:**

**21.1 Performance Bank Guarantee:**

*As Licensees would not be forced to create infrastructure therefore no roll out obligations may be casted upon Licensees. Therefore, no PBG is prescribed for VNOs.*

**21.2 Financial Bank Guarantee:**

*The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area as per ..., initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any Scheduled Bank or Public Financial Institution*

*duly authorized to issue such Bank Guarantee, in the prescribed Proforma at .... of this license agreement. Subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor, i.e. CCAs/ DoT and shall be renewed from time to time. Initially, the Bank Guarantee (FBG) shall be valid for a period of one year and shall be renewed from time to time. The Licensee, on its own, shall extend the validity period of the Bank Guarantees at least one month prior to date of its expiry without any demand or notice from the Licensor on year to year basis. Any failure to do so, shall amount to violation of the terms of the License and entitle the Licensor to encash the Bank Guarantees and to convert into a cash security without any reference to the Licensee at his risk and cost. No interest or compensation whatsoever shall be paid/ payable by the Licensor on such encashment.*

*21.3 Where the Bank Guarantees have been encashed partially, the licensee on such occasions, shall restore the encashed guarantees to the full amount. Any failure to do so shall amount to violation of the terms and conditions of the license.”*

3.9 In the Consultation Paper (CP) dated 26.07.2022, the Authority has sought views of stakeholders on whether the practice of Bank Guarantee in various licenses should be continued. In this regard, the following questions were raised in the CP: -

**Q7. Is there a need to continue with the practice of the Bank Guarantee in various licenses/authorizations? Please Justify.**

**Q8. If the answer to Q7 is no, then what practice should be followed to secure the Government dues and performance of service providers?**

## **Comments received from the stakeholders**

- 3.10 In response to the above questions, a few stakeholders are in favor of bank guarantees, while most of the stakeholders have suggested to do away with the requirement of BGs in various licenses and authorizations.
- 3.11 A few stakeholders have suggested that there is no requirement to securitize GST payment with BGs, hence there should not be a BG obligation for TSPs for their license related payment obligations.
- 3.12 Some of the stakeholders have also mentioned that if the licensor wants to keep the provisions of BGs, then the amount of FBG should be reduced further by 50%. At the same time, in case of PBG, it should be removed as there are minimal performance obligations of licenses/ authorizations.
- 3.13 Further, one of the stakeholders also mentioned that BG should be applicable only for new entrants, that too only for the initial three years. Post-completion of this period without any default, the BGs should be returned to the service providers.
- 3.14 From the perspective of ease of doing business, one stakeholder has suggested that a self-assessment mechanism should be suitably designed thereby achieving minimal litigation and resulting in doing away with the need to secure dues through bank guarantees.

## **Analysis**

- 3.15 The definition of Guarantee flows from Section 126 of The Indian Contract Act, 1872<sup>24</sup>, which defines:

*126. "Contract of guarantee", "surety", "principal debtor" and "creditor"—A "contract of guarantee" is a contract to perform the promise, or discharge the*

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<sup>24</sup> [https://www.indiacode.nic.in/handle/123456789/2187?sam\\_handle=123456789/1362](https://www.indiacode.nic.in/handle/123456789/2187?sam_handle=123456789/1362)

*liability, of a third person in case of his default. The person who gives the guarantee is called the “surety”; the person in respect of whose default the guarantee is given is called the “principal debtor”, and the person to whom the guarantee is given is called the “creditor”. A guarantee may be either oral or written.*

- 3.16 There are three parties involved in a contract of guarantees:
- a. The Applicant – On whose behalf guarantee is issued (i.e. the principal debtor)
  - b. The Beneficiary – Favoring whom the guarantee is issued
  - c. The Guarantor – Issuing Bank (i.e. the surety)
- 3.17 Presently, a telecom licensee is required to submit financial bank guarantees to secure the Government’s dues and to submit performance bank guarantee to ensure the compliance of performance obligations and the license conditions.
- 3.18 The bank guarantee gives an assurance to the licensor that if the licensee does not meet its performance obligations, or violates the terms and conditions of license agreement, or in case of any default of liability, then the same will be taken care of by the bank. Thus, the issuing bank is called upon to compensate the beneficiary in monetary terms in case of breach of financial or performance obligations.
- 3.19 While analyzing the comments of stakeholders, the Authority has observed that stakeholders are analysing the concept of securitizing the license fees by comparing with the dues of GST. The stakeholders have cited that there is no need of BGs or any other instruments to securitize the taxation dues. The Authority is conscious of the fact that there is a difference in the two regimes in terms of the number of taxpayers vis-à-vis number of service providers., There is also a difference in the state of development of the respective domains in which the two regimes operate. Besides this, the

taxation authorities enjoy wide-ranging powers, including that of a civil court, in the manner of collection of tax dues.

3.20 The telecom industry is in a state of continuous evolution with a robust growth trend. The constant changes in the telecom ecosystem, including the rapid pace of technological advancement, cause frequent disruptions forcing the incumbent service providers to adapt and affect all embracing changes in business strategy and operational models. The constant change and consequent disruption opens up the possibility of entry of new service providers, many a times with a new business strategy. Therefore, the growth of the telecom industry and economy depends on the seriousness of the service providers.

3.21 It is, therefore, important to have some sort of a mechanism to guard against the vagaries of the telecom market. Having Bank Guarantees has been such a time-tested mechanism.

3.22 **Therefore, the Authority is of the view that the practice of bank guarantee in various licenses/ authorizations should continue.**

#### **B. Review of Bank Guarantees under UL and UL (VNO)**

3.23 Presently, there are two different types of bank guarantees. A Financial Bank Guarantee to securitise the liabilities in respect of License Fee and other dues not otherwise securitized, and a performance bank guarantee to cover any violation of license conditions and to ensure the performance under license agreement.

3.24 Regarding the merger and review of bank guarantees under UL and UL(VNO) licenses, the following questions were raised in the CP: -

**Q9. Is there any justification for merging the two bank guarantees i.e., Financial Bank Guarantee and Performance Bank Guarantee? Please give detailed justification.**

**Q10. What should be the methodology to calculate the amount of merged Bank Guarantee? Please Justify. What should be associated terms and conditions with reference to financial and performance parameters?**

**Q11. What should be the amount of merged bank guarantee that should be made applicable for new entrants during the first year? Please justify.**

**Q12. What should be the methodology to review the merged Bank Guarantee and after how much time? Please justify. In case of failure to meet only performance parameters or only financial parameters what should be the methodology for partial encashment of BG?**

**Q13. Should the merged bank guarantees be applicable for new entrants as well as existing licensees other UL/UL(VNO)? Please give justification for your response.**

### **Comments received from stakeholders**

3.25 Some stakeholders have stated that both the BGs should be merged because single BG can serve the ultimate objective of a licensor to securitize the financial dues and performance obligation of the license agreement. In case of any failure to pay license-fee dues/any other dues or any deficiency in performance, the licensor can encash the Bank Guarantee.

3.26 A few stakeholders are against the concept of merging both BGs stating that each of the BG correspond to the different set of financial and

performance obligations under the license. On the other hand, some of the stakeholders have mentioned that the provision of PBG should be removed and amount of FBG should be reduced further by 50%.

- 3.27 Some stakeholders have suggested that the provision of BGs should be kept the same for new entrants as well as existing licensees. Any discrepancies will put existing licensees at a competitive disadvantage and the issue of the level playing field will arise. Another stakeholder has suggested that there should not be any BG for new entrants, or for new entrants the creditworthiness, credit rating and financial strength of the company may be considered.

### **Analysis**

- 3.28 In the past, the Authority made recommendations related to financial bank guarantee and performance bank guarantee for various licenses/authorizations.
- 3.29 The Authority vide Recommendations dated 16th April 2012 (guidelines for Unified Licence/Class Licence and Migration of Existing Licences) recommended that each holder of a Unified Licence shall be required to submit a FBG equivalent to the Licence Fee payable for two quarters. Initially, FBG shall be for an amount of Rs. 75 lakh for National level UL, Rs. 5 lakh for each LSA, except J&K and North East where the initial FBG will be Rs. 2.5 lakh each, and Rs. 50,000 for each District level Unified Licence. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to Licence Fee for two quarters and other dues not otherwise securitized.
- 3.30 The Authority vide its Recommendations on Licensing framework for Audio Conferencing/Audiotex/ Voice Mail Services. (response to back reference sent on 24.12.2019) dated 16<sup>th</sup> December 2016 recommended PBG of Rs.



ten lakh and FBG of Rs. 1 lakh. After one year, the amount of FBG shall be equivalent to the estimated sum payable equivalent to Licence fee for two quarters and other dues not otherwise securitized.

- 3.31 The Authority vide its Recommendations on 'Captive VSAT CUG Policy issues' dated 18th July 2017 recommended FBG equivalent license fee for two quarters.
- 3.32 Vide Recommendations on "Spectrum, Roaming and QoS related requirements in Machine-to-Machine (M2M) Communications" dated 5th September 2017, the Authority recommended PBG of Rs. 2 crore, 10 lakh, 50 thousand for M2M 'A', "B' and 'C' categories respectively. Further, FBG of Rs. 10 lakh, 1 lakh, one thousand for M2M 'A', "B' and 'C' categories respectively was recommended.
- 3.33 The Authority analyzed the comments received from the stakeholders. Further, the views of DOT conveyed vide its letter dated 03.03.2022 that *"...both FBG & PBG should be merged and amount of single BG may be prescribed for each authorization"* also need to be considered in this context.
- 3.34 Regarding merging the two types of BGs, one set of stakeholders have favored merging the two BGs, while another set of stakeholders have suggested to remove the concept of PBG.
- 3.35 After considering the comments received from stakeholders, the Authority feels that in order to take a view on merging the Financial BG and Performance BG into a single BG, the quantum of BGs across various authorizations in different licenses, for the initial year and in subsequent years, needs to be analysed.
- 3.36 A comparison of amount of PBG and FBG being submitted by the licensees, for the initial year, under various authorizations of Unified License show

that PBG as a percentage of FBG is quite high for the initial year across all authorizations except for NLD and ILD, where the amount of PBG is half the amount of FBG. The details are given as under: -

**Table 3.1**

**Authorization-wise amount of PBG vis-à-vis FBG**

<b>S.No.</b>	<b>Service</b>	<b>PBG (Rs. in Cr.)</b>	<b>FBG (Rs. in Cr.)</b>	<b>PBG/FBG (in %)</b>
1	UL(All services)	44	8.8	500%
<b>Service Authorization wise requirements</b>				
1	Access Service (Telecom Circle / Metro Area)	2	0.4	500%
2	NLD (National Area)	0.5	1	50%
3	ILD (National Area)	0.5	1	50%
4	VSAT (National Area)	0.1	0.06	167%
5	PMRTS (Telecom circle/Metro)	0.002	0.002	100%
6	GMPCS (National Area)	0.5	0.2	250%
7	ISP "A" (National Area)	0.4	0.02	2000%
8	ISP "B" (Telecom circle/Metro Area)	0.02	0.002	1000%
9	ISP "C" (SSA)	0.001	0.0002	500%
10	Audio conferencing/ Audiotex/ Voice mail service	0.02	0.002	1000%
11	Machine to Machine 'A' (National Area)	0.4	0.02	2000%
12	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.02	0.002	1000%
13	Machine to Machine 'C' (SSA)	0.001	0.0002	500%

- 3.37 However, for the subsequent years, where the amount of FBG is being calculated as 20% of the estimated license fee for two quarters and other dues not otherwise securitized; a comparison of PBG with license fee shows that the amount of PBG is less than 2% of the annual license fees being paid by operators across various authorizations.
- 3.38 This indicates that for the initial year the amount of PBG vis-à-vis FBG is substantial while for the subsequent years it is the opposite. The Authority is of the view that this needs to be considered while arriving at the amount of merged BG.
- 3.39 An analysis of the international practices in this regard was also undertaken. Detailed information about the same is given at **Annexure-V**. From the table in Annexure-V, it can be seen that across various jurisdictions either there is no provision of bank guarantee or a single bank guarantee is required to be submitted for compliance of license conditions, which includes the payment of any fees/dues. This argument has also been supported by some stakeholders through their submissions to the consultation paper.
- 3.40 Some stakeholders have commented that there exist sufficient checks and balances, and there are penal provisions in the current regulations to secure Government Dues and ensure performance of the licensees. Therefore, no additional provisions are required to be made for the assurance of Government dues / performance from all the Licensees.
- 3.41 The Authority takes note that the respective UL and UL(VNO) licence agreements contain provisions wherein the Licensor in addition to encashing the bank guarantee may impose financial penalties for the violation of terms and conditions of license agreement. In this regard, some of the provisions of the licenses are :-

**“10. Penalty, Suspension, Surrender, Termination/Revocation of License:**

10.1 (i) *The Licensor may impose a financial penalty not exceeding the amount shown in Annexure-VI for each service as per applicable service area per occasion for violation of terms and conditions of license agreement.*

*Annexure-VI*

<i>Sl No.</i>	<i>Service Authorization</i>	<i>Maximum Amount of Penalty per violation for each occasion in Service Area</i>
1	<i>Access</i>	<i>50 Crore</i>
2	<i>NLD</i>	<i>50 Crore</i>
3	<i>ILD</i>	<i>50 Crore</i>
4	<i>ISP Cat A</i>	<i>1 Crore</i>
5	<i>ISP Cat B</i>	<i>20 Lakh</i>
6	<i>ISP Cat C</i>	<i>10 Lakh</i>
7	<i>GMPCS</i>	<i>50 Crore</i>
8	<i>PMRTS</i>	<i>10 Lakh</i>
9	<i>VSAT CUG</i>	<i>1 Crore</i>
10	<i>Audio Conferencing/ Audiotex/ Voice mail services</i>	<i>20 Lakh</i>
11	<i>M2M Cat A</i>	<i>1 Crore</i>
12	<i>M2M Cat B</i>	<i>20 Lakh</i>
13	<i>M2M Cat C</i>	<i>10 Lakh</i>

.....

**13. Set Off:**

13.1 *In the event any sum of money or claim becomes recoverable from or payable by Licensee to the Licensor either against this License Agreement or otherwise in any manner, such money or claim can be (without restricting any right of set off for counter claim given or employed by law) deducted or adjusted against any amount or sum of money then due or which at any time thereafter may become due to the Licensee under this License*

*Agreement or any other agreement or contract between the Licensor and the Licensee.*

*13.2 The aforesaid sum of money payable to the Licensee Company shall include any security/ bank guarantee which can be converted into money.*

.....

**20. Schedule of payment of Annual License Fee and other dues:**

*20.7 Any delay in payment of License Fee or any other dues payable under the License, beyond the stipulated period will attract interest at a rate which will be 2 % above the one year Marginal Cost of Lending Rate (MCLR) of State Bank of India existing as on the beginning of the Financial Year (namely 1st April) in respect of the license fees or any other dues pertaining to the said Financial Year. The interest shall be compounded annually.”*

3.42 Thus, the Authority also feels that in addition to bank guarantees, there are sufficient penal provisions in the license agreement to ensure performance under the license agreement and securitize dues, if required.

3.43 Further, the motivation for PBG was primarily to secure the roll-out obligations of the licensees. It was more relevant in a scenario where spectrum was bundled with the licence and given at an administered price. However, in the new licensing regime, spectrum is allocated through an auction process and licensees are required to pay market-determined prices. Therefore, the rationale of taking BG to secure roll-out obligations may not hold good since the licensee has already paid a significant amount upfront and any idling of the spectrum resource would be to the licensee’s detriment. The move towards market-based determination of spectrum prices can generally be expected to be sufficient motivation to the licensees to rollout services in time. The Authority is of the considered view that the

concept of a separate PBG may not be relevant under the present auction-based spectrum allocation regime.

- 3.44 From the analysis given above, the Authority feels that there is no requirement of two separate BGs and a single BG can effectively be used to serve the objective of the licensor to securitize the financial dues as well as any performance obligations under the license agreement. And in case of any failure to pay license-fee dues/any other dues or deficiency in performance, Licensor (DoT) can encash the merged Bank Guarantee.
- 3.45 Merging of bank guarantee will not only encourage ease of doing business but will also help the licensees to make investments towards maintaining and improving their existing networks, thereby ushering the growth of the telecommunication sector and improve the quality of service.
- 3.46 In this backdrop, the Authority is of the considered view that both BGs viz. PBG and FBG should be merged and there should be only a single Bank Guarantee. The merged bank guarantee should be prescribed to securitize the License fee and other dues not otherwise securitized, to cover the violation of license conditions and to ensure the performance under license agreement including compliance of instructions issued by the Licensor/regulator from time to time. The amount of this merged BG in case of UL should be submitted separately for each service and service area initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year. For the initial year, the amount of merged BG should be higher of the two, i.e. existing FBG or existing PBG, as given in Table 3.2 below: -

**Table 3.2**  
**Merged Bank Guarantee across various authorizations under Unified License**

S.No.	Service Authorization	Amount of merged BG for the initial year (Rs. in crore)
1	All services	44.000
Service Authorization wise requirements		
1	Access Service (Telecom Circle / Metro Area)	2.000
2	NLD (National Area)	1.000
3	ILD (National Area)	1.000
4	VSAT (National Area)	0.100
5	PMRTS (Telecom circle/Metro)	0.002
6	GMPCS (National Area)	0.500
7	ISP "A" (National Area)	0.400
8	ISP "B" (Telecom circle/Metro Area)	0.020
9	ISP "C" (SSA)	0.001
10	Audio Conferencing/ Audiotex/ Voice mail Service	0.02
11	Machine to Machine 'A' (National Area)	0.400
12	Machine to Machine 'B' (Telecom Circle/ Metro Area)	0.02
13	Machine to Machine 'C' (SSA)	0.001

3.47 The Authority takes note that the quantum of bank guarantees has been rationalized by the Government by issuing amendments across various licenses. Hence, for the subsequent years, the amount of merged BG may be higher of initial year bank guarantee or 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).

- 3.48 The merged BG should be subject to periodic review on six-monthly basis by DoT.
- 3.49 Since there is no concept of performance in UL (VNO) and no PBG has been prescribed in UL (VNO), the prescribed FBG with the same condition to continue.
- 3.50 **In view of the foregoing discussion, the Authority recommends that for Unified License:**
- a. Financial Bank Guarantee and Performance Bank Guarantee should be merged into a single Bank Guarantee.**
  - b. This Bank Guarantee should be submitted to securitize the License fee and other dues not otherwise securitized, to cover the violation of license conditions and to ensure the performance under license agreement/regulations including compliance of instructions issued by the Licensor (DoT)/regulator from time to time.**
  - c. The amount of Bank Guarantee in case of UL should be submitted separately for each service and service area initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year.**
  - d. For the initial year, the amount of Bank Guarantee should be as prescribed in Table 3.2 above. For the subsequent years, the amount of Bank Guarantee should be higher of the initial year BG or 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).**
  - e. The Bank Guarantee should be subject to periodic review on six-monthly basis by DoT.**
  - f. The above provisions should be applicable for existing as well as new entrants.**



3.51 **The Authority recommends that for UL (VNO) the existing provisions of financial bank guarantee should continue.**

**C. Review of Bank Guarantees for licenses/ registrations other than UL and UL (VNO)**

3.52 For reviewing the bank guarantees in licenses/ registrations/ permission/ authorizations other than UL and UL (VNO), the following question was raised in CP:

**Q14. Is there any need to merge or review the bank guarantee for the licenses/ registrations/ authorizations/ permissions other than UL and UL (VNO)? Please justify.**

**Comments received from stakeholders**

3.53 A few stakeholders have commented that the provision of BGs for the licenses/ registrations/ authorizations/ permissions other than UL and UL (VNO), should be kept the same and uniform.

3.54 One stakeholder has suggested further rationalization in BG while other stakeholders are not in favour of BG.

3.55 Some stakeholders have suggested that BG should be applied and merged uniformly across all licenses/ registrations/ authorizations/ permissions.

**Analysis**

3.56 As per the current licensing regime, the MNP operators are required to submit PBG of Rs. 20 lakhs valid for two years. After completion of one year from the successful commencement of operation, the amount of PBG is reduced by 50%, i.e PBG is equal to Rs.10 Lakhs, and this 50% amount of PBG shall be released after the expiry of license period. On the other

- hand, initially the MNP licensee shall submit the FBG of 40 lakhs, valid for three years and subsequently the amount is equivalent to 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).
- 3.57 For the CMRTS license, the PBG is not applicable, only FBG is required to be submitted. The FBG of Rs. 20,000 initially before signing the license agreement valid for one year and subsequently the amount is equivalent to 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).
- 3.58 For the captive VSAT services, the PBG is not applicable, only FBG is required to be submitted. The FBG of Rs. 3 lakh before signing the license agreement valid for one year and subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable annually towards license fee.
- 3.59 The amendments issued by DoT for Bank Guarantee in respect of MNP, CMRTS and Captive VSAT licenses are given at **Annexure-VI**.
- 3.60 The Authority takes note of the rationalization of bank guarantees undertaken by the Government by issuing amendments across various licenses. The Authority further considers the financial and market conditions of the above licenses and the view taken for FBG and PBG under UL and UL(VNO) licenses.
- 3.61 **In view of the above, the Authority recommends that for MNP license:**
- a. Financial Bank Guarantee and Performance Bank Guarantee should be merged into a single Bank Guarantee.**
  - b. This Bank Guarantee should be submitted before signing the License Agreement, valid for one year.**

- c. For the initial year, the amount of Bank Guarantee should be 40 lakh. For the subsequent years, the amount of Bank Guarantee should be higher of 10 lakh or 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).**
- d. The Bank Guarantee should be subject to periodic review on six-monthly basis by DoT.**
- e. The above should be applicable for existing as well as new entrants.**

**3.62 The Authority recommends that for CMRTS and Captive VSAT, the existing provisions of financial bank guarantee should continue.**

#### **D. Electronic Bank Guarantees**

3.63 Electronic Bank Guarantee (eBG) is an electronic form of traditional BG. National E-Governance services Ltd. (NeSL) and Indian Banks' Association (IBA) worked together to evolve the model for electronic Bank Guarantee (eBG) so as to completely eliminate paper and bring transparency in the process for all stakeholders. Following are some of the advantages of eBGs:-

3.64 Rationale behind E-Bank guarantee:

- Saves time and reduces any delay
- Provides immediate status Provide real time status of the bank guarantee
- Ease of verification, access, search, trail/history
- Initiates invocation request/ discharge letter electronically

3.65 Towards digitizing the existing processes, DoT has taken up an initiative to ease and automate revenue reporting, assessment and payment

mechanism. A Revenue Management Software, SARAS (System for Assessment of LF Revenue and SUC), has been implemented in 2019 to digitize the assessments, payment and accounting of license fees, spectrum usage charges etc. along with all ancillary processes.

3.66 In Recommendations on 'Ease of Doing Business (EoDB) in telecom and Broadcasting sector', the Authority has contemplated that EoDB reforms are also required in the payment and assessment of the Government levies payable by a TSP. For this purpose, the Authority recommended process for submission of electronic bank guarantee.

3.67 Therefore, in place of Bank Guarantee, eBG should be accepted, with the objective of ease of doing business, and it will reduce burden and save the time of service providers. It would help the licensor to take a proactive action and will be easy to maintain. BG should be replaced with eBG without affecting the other provisions viz. review period, validity, etc.

**3.68 In order to enhance the Ease of Doing Business, the Authority recommends that across various licenses/ authorizations, the process for submission of electronic bank guarantee should be adopted by DoT.**

## **CHAPTER-IV**

### **SUMMARY OF RECOMMENDATIONS**

**4.1 The Authority recommends that the entry fee should be reduced from the present levels in the UL and UL (VNO) licenses.**

**[Para 2.33]**

**4.2 The Authority recommends that:**

**1. The entry fee should be reduced for various authorizations under UL & UL(VNO), both within each license and across licenses.**

**2. The entry fee in licenses/ registrations/ authorisations/ permissions, other than UL and UL (VNO) should also be reduced.**

**[Para 2.40]**

**4.3 The Authority recommends that uniform entry fee across all authorizations both within each license and across licenses should not be levied.**

**[Para 2.49]**

**4.4 The Authority recommends that no entry fee should be charged for M2M (A/B/C) authorizations.**

**[Para 2.64]**

**4.5 The Authority recommends that no entry fee should be charged for Audio conferencing/ Audiotex/ Voice mail service.**

**[Para 2.69]**

**4.6 The Authority recommends that entry fee for PMRTS authorization should be reduced from Rs. 50 thousand (per telecom circle/ Metro area) to Rs. 20 thousand (per telecom circle/ Metro area).**

**[Para 2.75]**

**4.7 The Authority recommends that entry fee for GMPCS authorization must be kept at the present level Rs. 1 crore for a national level license.**

**[Para 2.80]**

**4.8 The Authority recommends that entry fee for VSAT authorization must be kept at the present level Rs. 30 Lakh for a national level license.**

**[Para 2.84]**

**4.9 The Authority recommends that in case of access service, the entry fee for telecom circle/ metro area should be reduced from Rs. 1 crore to Rs. 50 Lakh. For J&K and North east, the entry fee should be reduced from Rs. 0.5 crore to Rs. 25 lakh.**

**[Para 2.90]**

**4.10 The Authority recommends that entry fee for both NLD and ILD authorizations should be reduced from Rs 2.5 crore to Rs. 50 lakh.**

**[Para 2.99]**

**4.11 The Authority recommends no entry fee should be charged for ISP “C” authorizations.**

**[Para 2.102]**

**4.12 The Authority recommends that entry fee for ISP “B” should be reduced from Rs. 2 lakh to Rs. 50 thousand per telecom circle and Rs. 25 thousand for J&K and North-East each.**

**[Para 2.107]**

4.13 The Authority recommends that entry fee for ISP “A” should be reduced from Rs. 30 lakh to Rs. 10 lakh.

[Para 2.109]

4.14 The Authority recommends that the existing ceiling of Rs. 15 crore and Rs. 7.5 crore should be removed for both UL as well UL(VNO) Authorizations.

[Para 2.112]

4.15 The Authority recommends the following entry fee for UL authorizations:

S.No.	Service	Present Entry Fee (Rs. in cr.)	Recommended Entry Fee (Rs. in cr.)
1	UL (All services)	15.000	Summation of entry fee for individual authorizations
<b>Service Authorization wise requirements</b>			
1.	Access Service (Telecom Circle / Metro Area)	1.000 (0.5 for NE & J&K)	0.5 (0.25 for NE & J&K)
2.	NLD (National Area)	2.500	0.5
3.	ILD (National Area)	2.500	0.5
4.	VSAT (National Area)	0.300	0.3
5.	PMRTS (Telecom circle/Metro)	0.005	0.002
6.	GMPCS (National Area)	1.000	1.000
7.	ISP "A" (National Area)	0.300	0.1
8.	ISP "B" (Telecom circle/Metro Area)	0.020	0.005 0.0025 (J&K and NE)
9.	ISP "C" (SSA)	0.002	Nil
10.	Audio conferencing/ Audiotex/ Voice mail service	0.100	Nil
11.	Machine to Machine 'A' (National Area)	0.30	Nil

12.	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.02	Nil
13.	Machine to Machine 'C' (SSA)	0.002	Nil

[Para 2.113]

**4.16 The Authority recommends the following entry fee for these authorizations:**

- a) The entry fee for Access Service (UL-VNO) should be reduced from Rs. 50 Lakh per telecom circle/Metro (Rs. 25 Lakh for J&K and North east) to Rs. 12.5 Lakh per telecom circle/Metro (Rs. 6.25 Lakh for J&K and North east)
- b) The entry fee for NLD(UL-VNO) authorization should be reduced from Rs. 1.25 crore to Rs. 12.5 lakh.
- c) The entry fee for ILD(UL-VNO) authorization should be reduced from Rs. 1.25 crore to Rs. 12.5 lakh.
- d) The entry fee for GMPCS authorization should be reduced from Rs. 50 Lakh to Rs. 12.5 lakh.
- e) The entry fee for VSAT authorization should be reduced from Rs. 15 Lakh to Rs. 7.5 lakh.

[Para 2.127]

**4.17 The Authority recommends that no entry fee should be charged for Access Service Category-B under UL(VNO).**

[Para 2.128 a]



**4.18 The Authority recommends that the entry fee for Resale of IPLC should be reduced from Rs. 50 Lakh to Rs. 5 Lakh.**

**[Para 2.128 b]**

**4.19 The Authority recommends that entry fee should be levied only at the time of entry and not at the time of renewal of license.**

**[Para 2.129]**

**4.20 The Authority recommends the entry fee for UL(VNO) authorizations as given below:**

<b>S.No.</b>	<b>Service Authorization(s) (VNO)</b>	<b>Entry Fee (Rs. in cr.)</b>	<b>Recommended Entry Fee (Rs. in cr.)</b>
<b>1.</b>	<b>UL(VNO-All services)</b>	<b>7.5</b>	<b>Summation of entry fee for individual authorizations</b>
<b>Service Authorization wise requirements</b>			
<b>1.</b>	<b>Access Service (Telecom Circle / Metro Area)</b>	<b>0.5 (0.25 for NE &amp; J&amp;K)</b>	<b>0.125 (0.0625 for NE &amp; J&amp;K)</b>
<b>2.</b>	<b>NLD (National Area)</b>	<b>1.25</b>	<b>0.125</b>
<b>3.</b>	<b>ILD (National Area)</b>	<b>1.25</b>	<b>0.125</b>
<b>4.</b>	<b>VSAT (National Area)</b>	<b>0.15</b>	<b>0.075</b>
<b>5.</b>	<b>PMRTS (Telecom circle/Metro)</b>	<b>0.0025</b>	<b>0.001</b>
<b>6.</b>	<b>GMPCS (National Area)</b>	<b>0.5</b>	<b>0.125</b>
<b>7.</b>	<b>ISP "A" (National Area)</b>	<b>0.15</b>	<b>0.05</b>
<b>8.</b>	<b>ISP "B" (Telecom circle/MetroArea)</b>	<b>0.010</b>	<b>0.0025 0.00125 (J&amp;K and NE)</b>
<b>9.</b>	<b>ISP "C" (SSA)</b>	<b>0.001</b>	<b>Nil</b>
<b>10.</b>	<b>Resale of IPLC</b>	<b>0.5</b>	<b>0.05</b>
<b>11.</b>	<b>Access Service Cat B</b>	<b>0.0165</b>	<b>Nil</b>
<b>12.</b>	<b>Machine to Machine 'A'</b>	<b>0.150</b>	<b>Nil</b>

	(National Area)		
13.	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.010	Nil
14.	Machine to Machine 'C' (SSA)	0.001	Nil

[Para 2.130]

4.21 The Authority recommends that entry fee for MNP license should be reduced from Rs. 1 crore to Rs. 50 lakh.

[Para 2.136]

4.22 The Authority recommends that entry fee for Captive VSAT license should be reduced from Rs. 15 Lakh to Rs. 7.5 Lakh.

[Para 2.140]

4.23 The Authority also recommends that for licenses/ authorizations other than UL and UL (VNO), the Entry fee should be levied only at the time of entry and not at the time of renewal of license.

[Para 2.141]

4.24 For authorizations with 'Nil' entry fee, the Authority recommends the minimum license fee as given below:

S. No.	License/Authorization	Minimum license Fee (Rs. in cr.)
<b>UL</b>		
1.	M2M-A (National Area)	0.03
2.	M2M-B (Telecom Circle/ Metro Area)	0.002
3.	M2M-C (SSA)	0.0002
4.	ISP-C (SSA)	0.0002
5.	Audio conferencing/ Audiotex/ Voice mail service	0.01
<b>UL-VNO</b>		
1.	M2M-A (National Area)	0.015

2.	M2M-B (Telecom Circle/ Metro Area)	0.001
3.	M2M-C (SSA)	0.0001
4.	ISP-C (SSA)	0.0001
5.	Access Service – Category B	0.00165

[Para 2.143]

**4.25 The Authority recommends that for Unified License:**

- a. **Financial Bank Guarantee and Performance Bank Guarantee should be merged into a single Bank Guarantee.**
- b. **This Bank Guarantee should be submitted to securitize the License fee and other dues not otherwise securitized, to cover the violation of license conditions and to ensure the performance under license agreement/regulations including compliance of instructions issued by the Licensor (DoT)/regulator from time to time.**
- c. **The amount of Bank Guarantee in case of UL should be submitted separately for each service and service area initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year.**
- d. **For the initial year, the amount of Bank Guarantee should be as prescribed at Table 3.2 above. For the subsequent years, the amount of Bank Guarantee should be higher of the initial year BG or 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).**
- e. **The Bank Guarantee should be subject to periodic review on six-monthly basis by DoT.**
- f. **The above provisions should be applicable for existing as well as new entrants.**

[Para 3.50]

**4.26 The Authority recommends that for UL (VNO) the existing provisions of financial bank guarantee should continue.**

**[Para 3.51]**

**4.27 The Authority recommends that for MNP license:**

- a. Financial Bank Guarantee and Performance Bank Guarantee should be merged into a single Bank Guarantee.**
- b. This Bank Guarantee should be submitted before signing the License Agreement, valid for one year.**
- c. For the initial year, the amount of Bank Guarantee should be 40 lakh. For the subsequent years, the amount of Bank Guarantee should be higher of 10 lakh or 20% of the estimated sum payable (of license fee for two quarters and other dues not otherwise securitized).**
- d. The Bank Guarantee should be subject to periodic review on six-monthly basis by DoT.**
- e. The above should be applicable for existing as well as new entrants.**

**[Para 3.61]**

**4.28 The Authority recommends that for CMRTS and Captive VSAT, the existing provisions of financial bank guarantee should continue.**

**[Para 3.62]**

**4.29 In order to enhance the Ease of Doing Business, the Authority recommends that across various licenses/ authorizations, the**

**process for submission of electronic bank guarantee should be adopted by DoT.**

**[Para 3.68]**

**F. No. 20-577/2016-AS-I Vol.-III  
Ministry of Communications  
Department of Telecommunications  
(Access Service Wing)  
20, Ashoka Road, Sanchar Bhawan, New Delhi**

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**Dated the 3<sup>rd</sup> March, 2022**

**Subject: Rationalization of Entry Fees and Bank Guarantees in Unified License (UL)/ Unified License (Virtual Network Operators) License- seeking recommendations of TRAI- reg**

As per the current Unified License (UL)/ Unified License (Virtual Network Operators) regime, there is a provision of different Entry Fees and two separate bank guarantees (BGs) i.e., Financial Bank Guarantee (FBG) and Performance Bank Guarantee (PBG) for each service authorization. The details of prescribed Entry Fees and Bank Guarantees are attached as Annexure.

2. The Department is of the view that the Entry Fees should be reduced and made uniform across all authorizations. In case of BGs, both FBG & PBG should be merged and amount of single BG may be prescribed for each authorization.

3. Therefore, TRAI is requested to submit its recommendations under Section 11 (1) (a) of TRAI Act, 1997 (as amended) on this issue.

**Encl.: As above.**

  
**(S.B. Singh)**  
**Deputy Director General (AS)**  
**Phone: 23036918**

**To**

**The Secretary  
Telecom Regulatory Authority of India,  
Mahanagar Doorsanchar Bhawan,  
Jawaharlal Nehru Marg (Old Minto Road)  
New Delhi - 110002.**

**Details of Minimum Equity, Minimum Network, Entry Fee, PBG, FBG and Application Processing Fee for various service authorizations**

Sl No.	Service	Minimum Equity (Rs. Cr.)	Minimum Network (Rs. Cr.)	Entry Fee (Rs. Cr.)	PBG (Rs. Cr.)	FBG (Rs. Cr.)	Application Processing Fee (Rs. Cr.)
1	UL(All services)	25.000	25.000	15.000	44.000	8.800	0.010
Service Authorization wise requirements							
1	Access Service (Telecom Circle / Metro Area)	2.500	2.500	1.000 (0.5 for NE & J&K)	2.000	0.400	0.005
2	NLD (National Area)	2.500	2.500	2.500	0.500	1.000	0.005
3	ILD (National Area)	2.500	2.500	2.500	0.500	1.000	0.005
4	VSAT (National Area)	Nil	Nil	0.300	0.100	0.060	0.005
5	PMRTS (Telecom circle/Metro)	Nil	Nil	0.005	0.002	0.002	0.0015
6	GMPCS (National Area)	2.500	2.500	1.000	0.500	0.200	0.005
7	ISP "A" (National Area)	Nil	Nil	0.300	0.400	0.020	0.005
8	ISP "B" (Telecom circle/Metro Area)	Nil	Nil	0.020	0.020	0.002	0.0015
9	ISP "C" (SSA)	Nil	Nil	0.002	0.001	0.0002	0.001
10	Audio Conferencing/ Audiotex/ Voice mail service	Nil	Nil	0.100	0.02	0.002	0.0015
11	Machine to Machine 'A' (National Area)	Nil	Nil	0.30	0.400	0.020	0.005
12	Machine to Machine 'B' (Telecom circle/ Metro Area)	Nil	Nil	0.020	0.020	0.002	0.0015
13	Machine to Machine 'C' (SSA)	Nil	Nil	0.002	0.001	0.0002	0.001

**Details of Minimum Equity, Minimum Network and Entry Fee for various service authorizations**

Sl. No.	Service Authorization(s) (VNO)	Minimum Equity (Rs. Cr.)	Minimum Network (Rs. Cr.)	Entry Fee (Rs. Cr.)	FBGs (Rs. Cr.)	Application processing Fee (Rs. Cr.)
1	UL(VNO-All services)	10.0	10.0	7.5	4.400	0.010
2	Access Service (Telecom Circle / Metro Area)	1.0	1.0	0.5 (0.25 for NE & J&K)	0.200	0.005
3	NLD (National Area)	1.000	1.000	1.250	0.500	0.005
	ILD (National Area)	1.000	1.000	1.250	0.500	0.005
5	VSAT (National Area)	Nil	Nil	0.150	0.030	0.005
6	PMRTS (Telecom circle/Metro)	Nil	Nil	0.0025	0.001	0.0015
7	GMPCS (National Area)	1.000	1.000	0.500	0.100	0.005
8	ISP "A" (National Area)	Nil	Nil	0.150	0.010	0.005
9	ISP "B" (Telecom circle/Metro Area)	Nil	Nil	0.010	0.001	0.0015
10	ISP "C" (SSA)	Nil	Nil	0.001	0.0001	0.001
11	Resale of IPLC	1.250	1.250	0.500	0.100	0.005
12.	Access Service Cat B	-	0.050	0.0165	0.002	0.001
13	Machine to Machine 'A' (National Area)	Not prescribed	Not prescribed	0.150	0.010	0.005
14	Machine to Machine 'B' (Telecom circle/ Metro Area)	Not prescribed	Not prescribed	0.010	0.001	0.0015
15	Machine to Machine 'C' (SSA)	Not prescribed	Not prescribed	0.001	0.0001	0.001



## Amendment issued by DoT in UL Agreement w.r.t. BGs

Earlier Clauses	Amended Clauses (Amendments dated 06.10.2021)
<p><b>PART-I, CHAPTER-III, FINANCIAL CONDITIONS</b></p> <p><b>21. BANK GUARANTEES</b> <b>21.1 Performance Bank Guarantee:</b></p> <p>Performance Bank Guarantee (PBG) in prescribed format at Annexure III of this license agreement shall be submitted separately for each service and service area for the amount as per Annexure II, subject to a maximum of <b>Rs. 220 crore</b> initially, before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any scheduled bank or for one year, from any scheduled bank or public financial institution duly authorized to issue such bank guarantee, to cover violation of license conditions and to ensure the performance under the license agreement including compliance of instructions issued by the Licensor from time to time. The PBGs shall be maintained and kept valid by the licensee during the entire currency of the license Agreement. However, the Licensor may increase the value of PBGs whenever any demand is raised for non-compliance of terms and</p>	<p><b>PART-I, CHAPTER-III, FINANCIAL CONDITIONS</b></p> <p><b>21. BANK GUARANTEES</b> <b>21.1 Performance Bank Guarantee:</b></p> <p>Performance Bank Guarantee (PBG) in prescribed format at Annexure III of this license agreement shall be submitted separately for each service and service area for the amount as per Annexure II, subject to a maximum of <b>Rs. 44 crore</b> initially, before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any scheduled bank or for one year, from any scheduled bank or public financial institution duly authorized to issue such bank guarantee, to cover violation of license conditions and to ensure the performance under the license agreement including compliance of instructions issued by the Licensor from time to time. The PBGs shall be maintained and kept valid by licensee during the entire currency of the the license Agreement.</p> <p>However, the Licensor may</p>

<p>conditions of License/ authorization to the extent it remains un-securitized by the existing PBGs, which shall be maintained till clearance of such demand by the licensee.</p>	<p>increase the value of PBGs whenever an demand is raised for non- compliance of terms and conditions of License/ authorization to the extent it remains un-securitized by the existing PBGs, which shall be maintained till clearance of such demand by the licensee.</p>
<p><b>21.2 Financial Bank Guarantee:</b> The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area for the amount as per amount Annexure II, subject to a maximum of <b>Rs. 44 crore</b> initially before signing License Agreement or subsequent the License of authorization of service(s), as the case, valid for one year, from any may be, Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure IV of this license agreement. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to License fee for two quarters and other dues not otherwise securitized. The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor and shall be renewed from time to time.</p>	<p><b>21.2 Financial Bank Guarantee:</b> The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area for the amount as per Annexure II, subject to a maximum of <b>Rs. 8.8 crore</b> initially before signing License Agreement or subsequent the License of authorization of service(s), as the case, valid for one year, from any may be, Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure IV, of this license agreement. Subsequently, the amount of FBG shall be equivalent to <b>20%</b> of estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor and shall be renewed from time to time.</p>

**Amendment issued by DoT in UL (VNO) Agreement w.r.t. BGs**

<b>S. No.</b>	<b>Existing clause</b>	<b>Amended clause</b>
1	<p><b>PART-I, CHAPTER-III, Financial Conditions</b>  <b>21.2 Financial Bank Guarantee:</b>  The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area for the amount as per Annexure-II, initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure-III of this license agreement. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to License fee for two quarters and other dues not otherwise securitized. The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor, i.e. CCAs/ DoT and shall be renewed from time to time. Initially, the Bank Guarantee (FBG) shall be valid for a period of one year and shall be renewed from time to time. The Licensee, on its own, shall extend the validity period of the Bank Guarantees at least one month prior to date of its expiry without any demand or notice from the Licensor on year to year basis. Any failure to do so, shall amount to violation of the terms of the License and entitle the Licensor to encash the Bank</p>	<p><b>PART-I, CHAPTER-III, Financial Conditions</b>  <b>21.2 Financial Bank Guarantee:</b>  The Licensee shall submit Financial Bank Guarantee (FBG) separately for each service and service area as per Annexure- II, initially before signing the License Agreement or subsequent authorization of service(s), as the case may be, valid for one year, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure-III of this license agreement. Subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). The amount of FBG shall be subject to periodic review on six monthly basis by the Licensor, ie. CCAs/ DoT and shall be renewed from time to time. Initially, the Bank Guarantee (FBG) shall be valid for a period of one year and shall be renewed from time to time. The Licensee, on its own, shall extend the validity period of the Bank Guarantees at least one month prior to date of its expiry without any demand or notice from the Licensor on year to year basis. Any failure to do so, shall amount to violation of the terms of the License and entitle the Licensor to encash the Bank Guarantees and to convert into a cash security without any reference to the Licensee at his risk and cost. No interest or compensation whatsoever shall be paid/ payable by the Licensor on such encashment.</p>

	Guarantees and to convert into a cash security without any reference to the Licensee at his risk and cost. No interest or compensation whatsoever shall be paid/ payable by the Licensor on such encashment.	
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**Annexure-III****Details of Entry Fee, PBG and FBG for various service authorizations  
under Unified License (Amended)**

<b>S.No.</b>	<b>Service</b>	<b>Entry Fee (Rs. in Cr.)</b>	<b>PBG (Rs. in Cr.)</b>	<b>FBG (Rs. in Cr.)</b>
1	UL(All services)	15.000	44.000	8.800
<b>Service Authorization wise requirements</b>				
1	Access Service (Telecom Circle /Metro Area)	1.000 (0.5 for NE & J&K)	2.000	0.400
2	NLD (National Area)	2.500	0.500	1.000
3	ILD (National Area)	2.500	0.500	1.000
4	VSAT (National Area)	0.300	0.100	0.060
5	PMRTS (Telecom circle/Metro)	0.005	0.002	0.002
6	GMPCS (NationalArea)	1.000	0.500	0.200
7	ISP "A" (National Area)	0.300	0.400	0.020
8	ISP "B" (Telecom circle/Metro Area)	0.020	0.020	0.002
9	ISP "C" (SSA)	0.002	0.001	0.0002
10	Audio conferencing/ Audiotex/ Voice mail service	1.000	0.02	0.002
11	Machine to Machine 'A' (National Area)	0.30	0.400	0.020
12	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.02	0.02	0.002
13	Machine to Machine 'C' (SSA)	0.002	0.001	0.0002

**Annexure-IV****Details of Entry Fee and FBG for various service authorizations under Unified License (VNO) (Amended).**

<b>S.No.</b>	<b>Service Authorization(s) (VNO)</b>	<b>Entry Fee (Rs. in Cr.)</b>	<b>FBGs (Rs. in Cr.)</b>
1	UL(VNO-All services)	7.5	4.40
<b>Service Authorization wise requirements</b>			
1	Access Service (Telecom Circle / Metro Area)	0.5 (0.25 for NE & J&K)	0.20
2	NLD (National Area)	1.25	0.5
3	ILD (National Area)	1.25	0.5
4	VSAT (National Area)	0.15	0.03
5	PMRTS (Telecom circle/Metro)	0.0025	0.001
6	GMPCS (National Area)	0.5	0.1
7	ISP "A" (National Area)	0.15	0.010
8	ISP "B" (Telecom circle/Metro Area)	0.010	0.001
9	ISP "C" (SSA)	0.001	0.0001
10	Resale of IPLC	0.5	0.1
11	Access service category B	0.0165	0.002
12	Machine to Machine 'A' (National Area)	0.150	0.010
13	Machine to Machine 'B' (Telecom circle/ Metro Area)	0.010	0.001
14	Machine to Machine 'C' (SSA)	0.001	0.0001

## Annexure-V

### International Practices for Bank Guarantee

S.No.	Country	Details
1.	Saudi Arabia <sup>25</sup>	The Bank Guarantee of SAR (Saudi Riyal) 5,00,000 is required only for short messaging service (SMS) and for the other service viz. “Facilities-Based Unified License (UL), Carrier Services Provision License, General Class License, Infrastructure Wholesale Service Provision License, Internet of Things Virtual Network Operators Services (IoT-VNO), Global Mobile Personal Communications Services (GMPCS)...”, there is no bank guarantee required by the licensees.
2.	Singapore <sup>26</sup>	The Licensee shall within 28 days following the award of the Licence, provide the IDA a performance bond to secure the obligations of the Licensee agreement. [pg. 8]
3.	Mauritius <sup>27</sup>	<p>The Licensee shall pay such licence fees to the Authority as may be prescribed. Such licence fees shall include an initial fee and an annual fee of Rs 50,000 each.</p> <p>Along with this, the Licensee shall submit a valid and enforceable performance bond/bank guarantee for an amount of Rs. 500,000, and for a minimum period of three years.</p> <p>Should be submitted before the signing of the Licence agreement for ensuring full compliance of Licence conditions including timely payment of Licence fee and other dues, fees and royalty for the provision of Services under this present Licence.</p>
4.	Mayalsia <sup>28</sup>	Irrevocable Bank Guarantee (IBG) to guarantee performance and compliance with the conditions of the Aparatus Assignment and the Detailed Business Plan, payable on demand, either in part or in full, for the amount

<sup>25</sup> [https://regulations.citc.gov.sa/PublishedDocuments/GovernorApprovalDecision\\_459/99f29770-ae12-4888-a7da-17aabe6494be\\_Regulations%20of%20the%20Fees%20for%20the%20Telecommunications%20Services.pdf](https://regulations.citc.gov.sa/PublishedDocuments/GovernorApprovalDecision_459/99f29770-ae12-4888-a7da-17aabe6494be_Regulations%20of%20the%20Fees%20for%20the%20Telecommunications%20Services.pdf)

<sup>26</sup> <https://www.imda.gov.sg/regulations-and-licences/licensing/list-of-telecommunication-and-postal-service-licensees/-/media/Imda/Files/Regulation-Licensing-and-Consultations/Licensing/Licensees/FBO/GTS.pdf>

<sup>27</sup> [https://www.icta.mu/documents/2021/09/licensing\\_fees.pdf](https://www.icta.mu/documents/2021/09/licensing_fees.pdf)

<sup>28</sup> [https://www.mcmc.gov.my/skmmgovmy/files/attachments/SRSP537\\_DTRS\\_16072010.pdf](https://www.mcmc.gov.my/skmmgovmy/files/attachments/SRSP537_DTRS_16072010.pdf)

		of RM 50,000 for Area 1, RM 30,000 for Area 2 and RM 30,000 for Area 3.
5.	United States <sup>29</sup>	FCC implemented the Debt Collection Improvement Act rules. The rules provide that if you fail to pay debts owed to the FCC, the debts will be referred to the Department of Treasury for collection. Any failure to pay will be reported to credit reporting agencies, and you will be unable to obtain any licenses or other benefits from the FCC.

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<sup>29</sup> <https://www.fcc.gov/licensing-databases/fees/debt-collection-improvement-act-implementation>



**Annexure-VI**

**Amendment issued by DoT in Other License Agreements w.r.t. BGs**

**MNP License Agreement**

<b>S. No.</b>	<b>Existing Clause</b>	<b>Amended Clause (Amendments dated 19.1.2022)</b>
1.	<p><b>PART-III, FINANCIAL CONDITIONS</b>  <b>26. BANK GUARANTEES:</b>  <b>26.1 Performance Bank Guarantee:</b>                      Performance Bank Guarantee (PBG) in prescribed format shall be submitted for amount equal to Rs. 1 crore, initially, valid for two years before signing the License Agreement. On completion of one year from successful commencement of operation of MNP service in the licensed MNP zone on the designated date/ time by the Licensee, except in case specifically restricted by Licensor/ DoT, 50% of the PBG amount shall be released while the remaining 50% of the PBG shall be released after the expiry of the license period.</p> <p><b>26.2 Financial Bank Guarantee:</b> The Licensee shall submit a Financial Bank Guarantee (FBG), valid for three years, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Performa annexed. Initially, the financial bank guarantee shall be for an amount of Rs. 2 crore which shall be submitted before signing the License agreement. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable equivalent to License Fee for two quarters and other dues not otherwise securitized and any additional amount as deemed fit by the Licensor. The amount of FBG shall be subject to periodic review by the Licensor and shall be renewed from time to time.</p>	<p><b>PART-III, FINANCIAL CONDITIONS</b>  <b>26. BANK GUARANTEES:</b>  <b>26.1 Performance Bank Guarantee:</b>                      Performance Bank Guarantee (PBG) in prescribed format shall be submitted for amount equal to <b>Rs.20 Lakh</b>, initially, valid for two years before signing the License Agreement. On completion of one year from successful commencement of operation of MNP service in the licensed MNP zone on the designated date/time by the Licensee, except in case specifically restricted by Licensor/ DoT, 50% of the PBG amount shall be released while the remaining 50% of the PBG shall be released after the expiry of the license period.</p> <p><b>26.2 Financial Bank Guarantee:</b> The Licensee shall submit a Financial Bank Guarantee (FBG), valid for three years, from any Scheduled Bank or Public Financial Institution duly authorized to issue such Bank Guarantee, in the prescribed Performa annexed. Initially, the financial bank guarantee shall be for an amount of <b>Rs.40 Lakh</b> which shall be submitted before signing the License agreement. Subsequently, the amount of FBG shall be equivalent to <b>20%</b> of estimated sum payable (of License Fee for two quarters and other dues not otherwise securitized and any additional amount as deemed fit by the Licensor). The amount of FBG shall be subject to periodic review by the Licensor and shall be renewed from time to time.</p>

### CMRTS License Agreement

Earlier Clauses	Amended Clauses (Amendments dated 18.10.2021)
<p><b>Schedule-II, PART-III, FINANCIAL CONDITIONS:</b></p> <p><b>15.1 FINANCIAL BANK GUARANTEE.-</b> The licensee shall submit a Financial Bank Guarantee (FBG), valid for one year, from any scheduled bank in India, or Indian Public Financial Institution (IPFI) in the prescribed format at Annexure III. The amount of FBG shall be Rupees one lakh or an amount equivalent to the license fee of the last two quarters of the previous year and other dues not otherwise securitised, whichever is higher. The FBG will be valid initially for one year and is to be maintained for the entire period of the License Agreement till final clearance of all such dues. The amount of FBG shall be subject to periodic review by the Licensor</p>	<p><b>Schedule-II, PART-III, FINANCIAL CONDITIONS:</b></p> <p><b>15.1 FINANCIAL BANK GUARANTEE:-</b> The Licensee shall submit Financial Bank Guarantee (FBG) of <b>Rupees Twenty Thousand</b> initially before signing the License Agreement valid for one year, from any Scheduled Bank Public Financial or Institution duly authorized to issue such Bank Guarantee, in the prescribed Proforma at Annexure III of this license agreement. Subsequently, the amount of FBG shall be equivalent to <b>20%</b> of the estimated sum payable (of License fee for two quarters and other dues not otherwise securitized). The amount of FBG shall be subject to periodic review on monthly basis by the Licensor and shall be renewed from time to time</p>

### Captive VSAT License Agreement

Earlier Clause	Amended Clause (Amendments dated 8.10.2021)
<p><b>3.0 Bank Guarantee</b></p> <p>3.1 The LICENSEE shall submit a Financial Bank Guarantee (FBG) valid for a period of one year from any Scheduled Bank in India in the prescribed performa at Annexure-II. Initially, the Financial Bank Guarantee shall be for an amount of Rs. 15 lakhs which shall be submitted before signing the License Agreement. Subsequently, the amount of FBG shall be equivalent to the estimated sum payable annually towards the license fee. The amount of FBG shall be subject to periodic review by the LICENSOR. (Financial Bank Guarantee is not applicable in the case of Central Government Departments.)</p>	<p><b>3.0 Bank Guarantee</b></p> <p>3.1 The LICENSEE shall submit a Financial Bank Guarantee (FBG) valid for a period of one year from any Scheduled Bank in India in the prescribed performa at Annexure-II. Initially, the Financial Bank Guarantee shall be for an amount of <b>Rs. 03 lakhs</b> which shall be submitted before signing the License Agreement. Subsequently, the amount of FBG shall be equivalent to 20% of the estimated sum payable annually towards the license fee. The amount of FBG shall be subject to periodic review by the LICENSOR (Financial Bank Guarantee is not applicable in the case of Central Government Departments.)</p>