Dated: 25 January 2007

The Secretary
Telecom Regulatory Authority of India
Mahanagar Doorsanchar Bhavan,
Jawaharlal Nehru Marg, Old Minto Road
New Delhi – 110 002

{(Attention: Advisor (CN)}

Subject: Review of Internet Services.

Reference: **Your Consultation Paper no. 19/2006.**

Dear Sir,

We are an ISP licensee of class "A" category and providing Internet service all over the country, under our modified ISP license No. 820-377/2002-LR, dated 09.04.2002. We are an registered ISP with TRAI under Registration No. S/IS/AI/000325.

We appreciate and welcome this initiative of the Authority & enclosing herewith our response on the above Consultation paper, with the hope that these inputs would be useful.

Thanking you,

Yours sincerely

(Rajkumar Sharma)
General Manager Projects

Encl : As above

RESPONSE TO TRAI CONSULTATION PAPER ON REVIEW OF INTERNET SERVICES

CHAPTER 5

Question No.1. **At present, there are 389 licensed ISPs out of which only 135 are offering Internet Services. Top 20 ISPs cater to 98% Internet subscriber base. In your view, is there a rational for such a large number of ISPs who are neither contributing to the growth of Internet nor bringing in competition in the sector? Suggest appropriate measurers to revamp the Internet Services sector.**

Comments/Response from HCL Infinet Ltd:

In other countries ISP sector being un-regulated or softly regulated, the number of ISP licensees is more than any other service providers. Keeping in view the large number of ISPs in smaller countries like Pakistan, Banglaseh, Nepal etc. 389 ISP licensees are not a big number for the country like India.

ISP policy being most liberalized initially, with no entry fee and no license fee for first 5 years & Rs 1/- annual license fee there after, attracted several new entrepreneurs and professionals including even those who were working abroad and came back to India to contribute to the growth of Internet in the country. Initiative of such players & keen efforts of standalone ISPs, resulted in sharp growth ranging between 100% to 240% in the Internet subscribers base during the year 1999-2001, but after that growth started declining (as stated in the TRAI consultation Paper itself) due to provision of Internet bandwidth, by the large players & incumbents like UASPs & CMSPs, at the predatory pricing by subsidizing from other lines of business.

Keeping in view the scope in their respective areas, city, circle, most of the companies signed ISP licenses under regional category B & C. But due to high cost of Inputs services/resources, predatory prices and policies of the incumbent operators forced several ISPs, including some of big players to quit business and several ISPs could not even start the services. When Government announced the exit policy (surrender ISP license by paying 5% of PBG amount), for ISP license holders which could not started services – It received good response and so far about 300 ISPs opted the exiting route and surrendered their ISP licenses.

We feel that to meet the Broadband penetration targets following steps need to be taken :

1. Some help like, support from USO fund, tax incentives such as 100% depreciation on Infrastructure equipment used by ISPs etc. should be available for ISPs who wish to provide Internet / Broadband services in remote and rural areas.
2. Putting roll out obligations will not serve the purpose, as this has not worked earlier and will not do so again.
3. Promote extensive use of wireless, provide customs duty, & excise duty relief's for equipment being used for such roll outs.
4. Allocate adequate spectrum to all serious players for rolling out services using WIMAX platform. Auctioning of spectrum in such a scenario is not a good idea, as it will favor the big players and restrict the general/small players.
5. Promote creation of local content in local language. Availability of this content will make large difference in ensuring faster rollout.
6. Do not put financial burden (5% of PBG as per exit route) on the companies which wanted to surrender their ISP license.
7. Put a condition for every ISP new as well as existing ones (provide adequate time) to have their own AS Number as well as their own IP addresses if they want to remain in business. It will filter out most of non-serious players.

Question No 2. Due to limited availability of spectrum for wireless broadband access, and high cost of creating last mile infrastructure, many ISPs are left with only option to provide Internet dialup access services. With increasing penetration of broadband, what efforts are required to ensure viability of such ISPs in changing scenario? Please give suggestions.

Comments/Response from HCL Infinet Ltd:

Yes, it is correct, that the Internet dial up connectivity being lesser capable & having no bright future usage, is vanishing day by day. To enhance growth of Internet & Broadband, multiple players should be allowed access to shared infrastructure on fair revenue share, enabling them to create innovative and cost effective services. It would not only meet network expansion, Infrastructure sharing, & broadband coverage, which are the objectives of 10 point agenda of Hon'ble Minister Communication & IT, but also will help in efficient and effective use of the precious resources of the country.

As regard to the allocation of spectrum, it is suggested that adequate & dedicated spectrum bandwidth may be allocated to ISPs, based on viable business plans. Serious efforts are also required, in allocating spectrum for using WIMAX platform. It will ensure enhancement in growth of Internet & broadband as well as will also ensure viability of ISPs. Whereas auctioning of spectrum may not be a viable proposition, as it will favor the big players & will restrict the smaller ISPs players.

Question No 3. At present limited services are permitted under ISP licenses. There is no clarity in terms of some services whether they can be provided under ISP licenses. Do you feel that scope of services which can be provided under ISPs licenses need to be broadened to cover new services and content ? Suggest changes you feel necessary in this regard.

Comments/Response from HCL Infinet Ltd:

There is great demand of value added services by subscribers and hence this needs to be encouraged**.** To meet increasing demand of the subscribers, all ISPs should be permitted to provide all IP based services/ value added services, including Internet telephony, IP TV, IP VPN and other new value added services to come in future. It will encourage competition and will ensure viability of ISPs also. Thus we strongly recommend that scope of ISP license should be broadened keeping further technological advancement in mind.

Question No. 4 UASL / CMTS licensees have been permitted unrestricted Internet telephony however none of them are offering the service. ISPs (with Internet Telephony) can provide Internet Telephony with in scope defined in license condition. The user friendly and cheaper devise with good voice quality are increasing Internet Telephony grey market. Please suggest how grey market can be curbed without depriving users to avail such services ?

Comments/Response from HCL Infinet Ltd:

We fully agree with the observation. ISPs (with Internet Telephony) are not able to utilize it up to an optimum level due to certain licensing conditions which allows usage of specific devices only for Internet Telephony services. Today various user friendly and cheap IP devices are available in the markets which are beneficial for the consumers. It will help in popularizing this service amongst the masses at a cheap rate.

To curb the grey market following needs to be done :

1. The root cause of grey market / illegal call termination, seems to be the price difference between normal and grey market calls and the main reason is Access deficit Charges (ADC). Government should try to reduce the price gap between Grey market and ILD calls and review current ADC regime.

2. We feel that only ISPs are not responsible for Grey Market as outbound facility is barred on E1/PRI provided to ISPs. As such Grey market is not possible without the help of Access Providers.

3. Updated list of ISPs with Internet Telephony License should be available on DoT, TRAI website and should be updated regularly, enabling the consumers to check the authenticity of the ISPs.

4. Create consumer awareness about illegal services & educate the users (SMEs /Corporate/BPO/KPO/Call Centres etc) to use Internet telephony services (voice minutes) of licensed service providers only.

5. All existing as well as new Call Centres/BPO/KPO should be asked to produce a copy of bill from their respective Internet Telephony Service Providers at least twice a year.

6. In our opinion, if the above steps are taken by the Government, it will help in curbing the grey market as well as control the revenue leakage (12.24% Service Tax & 6% AGR) to the Government.

Question No. 5.   How to address the issue of level playing field amongst the licensees of UASL, CMTS and ISPs ?

Comments/Response from HCL Infinet Ltd:

There are fundamental differences in the scope of services, financial implications amongst these licensees. UASL can provide all Basic services & un-restricted Internet telephony, whereas ISPs neither can provide Basic services nor the unrestricted Internet telephony.

We are of the view that Principle of "Arms Length Distance" should be maintained and ensured between the independent ISPs / ISP divisions of the TELCO (Integrated Players) and The TELCO itself. Arms Length Distance means that the independent ISPs and ISP divisions of TELCO should be treated on equal footing. This will ensure:

1. Availability of services and 'all resources' from the various TELCOs on a non discriminatory basis.

2. Level Playing Field between all, resulting in an end to cross subsidization* and thus resulting in an environment where multiple players coexist with healthy competition resulting in benefit for all consumers.

3. Government may consider to allow ISPs to provide all IP based services e.g. IPTV, Unrestricted Internet Telephony, IPTV, IP-VPN Layer-3 or other IP based services as may develop in the future based on following:
   a). ISPs will pay AGR as may be decided by the Government as additional IP based services e.g. IPTV, Un-restricted Internet Telephony, IP-VPN Layer-3 etc.

b). They will maintain accounting separation statements as per TRAI regulation.

c). Revenue from provision of simple Internet Access/Internet Bandwidth will not be taxed.

Question No. 6.   The emerging technological trends have been discussed in chapter 3. Please suggest changes you feel necessary in ISP licenses to keep pace with emerging technical trends ?

Comments/Response from HCL Infinet Ltd:

Keeping in view emerging technical trends and fast adoption of new applications and protocols, ISP license should be broadened/modified keeping further technological advancement in mind and to facilitate migration of New services, so that ISPs can adopt new technologies, applications and services immediately for the benefit of the users.

Question No. 7.   The service roll out obligations under ISP license is very general and can be misused by non-serious players. Do you feel the need to redefine roll out obligations so that growth of Internet can be boosted both in urban and rural areas ? Give suggestions.

Comments/Response from HCL Infinet Ltd:

Rollout obligations have not worked in any sector. Even recently Government has lifted roll out obligations form NLD & ILD sectors also. ISP license has the provision to start services within 24 months, we may continue with the same. Rather Government should help in creating a healthy atmosphere/competition so that multiple ISPs can offer the services at the affordable rates to the users.

The bigger players have provided majority of the Internet Connections in urban areas & have not gone into the semi-rural or rural segment till now because of a business case not working out. We feel that the smaller ISP's will take the lead to go ahead and make a business case in rural areas. To make this succeed the help of the incumbent would be required by way of sharing of infrastructure.

We feel that to meet the Broadband penetration targets, some of the steps that can be taken are as given below.

1. Support from USO fund, tax incentives etc. should also be available for ISPs who wish to provide Internet/Broadband services in remote and rural areas. Putting roll out obligations will not serve the purpose as this has not worked earlier and will not do so again.
2. Promote extensive use of wireless, provide custom duty & excise duty relief's for equipment being used for such rollouts.
3. Serious efforts are required in allocating spectrum for using WIMAX platform. This will allow larger ranges and bandwidth availability. The allocation of the bandwidth should be done to the ISP's based on viable business plans. As suggested earlier in such a scenario auctioning of spectrum may not be a viable proposition. Providing incentives will also help in getting the services rolled out.
4. Promote e-governance initiatives and creation of local content in local language. It is the availability of content and useful online information, which will make large difference in ensuring faster rollout.

Question No. 8. Do you feel that ISPs who want to provide unrestricted Internet telephony and other value added services be permitted to migrate to USAL without spectrum charges ?

Comments/Response from HCL Infinet Ltd:

In view of different, financial condition, scope of services and focus of UASL & ISPs, it will not be fair to put these two service providers at par as explained earlier.

Because majority of ISPs can not afford migration to UASL, the ISPs should be permitted to provide all value added services including unrestricted Internet Telephony, with a uniform revenue share of 6% of AGR earned from all these service streams, to ensure level playing field.

Question No. 9. UASL /CMTS licensees pay higher regulatory levies as compared to ISPs for provision of similar services. Do you feel that similar levies be imposed on ISPs also to maintain level playing field ? Give suggestions.

Comments/Response from HCL Infinet Ltd:

UASL / CMTS licensee are paying higher levy for Internet Services under their UASL/CMTS licenses. If they provide the same services under their ISP license with authorized accounting separation statement as per TRAI, their levies may considerably reduce.

Imposing levies on ISPs similar to UASL/CMTS Licensees, for value added services like Internet services will not be justified, because such services are supplementary services for UASL/CMTS Licensees, as they provides such services from among their network/infrastructure meant for other main services like Basic & CMTS etc. and do not invest separately/additionally for provision of Value Added services, whereas ISPs invests to provide such Value Added services only.
However, Government may consider exemption to 6% AGR on Internet / Broadband services to the UASL / CMTS licensees.

Question No. 10. Virtually there is no license fee for ISPs at present. The amount of performance bank guarantee and financial bank guarantee submitted by ISPs is low. Do you feel the need to rationalize the license fee, PBG, FGB to regulate the Internet Services ?

Comments/Response from HCL Infinet Ltd:

No. FBG, PBG and the license fee have to be kept low to ensure services to the end users, at lower rates. This is essential if we have to meet our target of Broadband penetration. However, government may consider some other steps as suggested earlier.

Earnings/profitability from value added services including internet and Internet telephony is very less, in comparison that from basic/CMTS services. Also Value added services, are not needed by general public, whereas UASL/CMTS services are the basic requirement of the general public now a days. As such the subscriber base of UASL /CMTS is considerably larger than that of ISPs thus the Basic/CMTS services are more remunerative than the value added services provided by ISPs.. Therefore comparing value added services with UASL/CMTS services with respect to the amount of licence fee, PBG & FBGs etc. will not be justified. Hence the existing rate of licence fee (6% of AGR), amount of PBG & FBGs in respect of ISPs/value added services, seems to be justified.

Question No. 11. At present ISPs are paying radio spectrum charges based on frequency, hops, link length etc. This methodology results in high cost of ISPs prohibiting use of spectrum for Internet services. Do you feel that there is a need to migrate to spectrum fee regime based on percentage of AGR earned from all the revenue stream ? Give suggestions ?

Comments/Response from HCL Infinet Ltd:

No. Moving to the revenue share regime is not a good idea. This would lead to very high cost thereby making ISPs un economical. We suggest that license fee should be charged only on first BTS established in the designated area. On every additional BTS charges should be nil or very nominal. It will result in effective and efficient utilization of spectrum and cheaper cost to the customer.

Question No. 12. The consultation paper has discussed some strategic paths to boost Internet telephony, bring in level playing field vis-a-viz other operators, and regulate the Internet services. Do you agree with the approach ? Please give your suggestions regarding future direction keeping in view the changing scenario.

Comments/Response from HCL Infinet Ltd:

Yes we agree with the TRAI in its endeavors. We wish to state that :-

1. All IP based services including Un-restricted Internet Telephony should be allowed to ISPs on payment of AGR.

2. Computing device should be available at a reasonable cost which is user friendly and technology agnostic.

3. Check on similar services offered by Foreign Service Providers without coming under Government regulations and licensing conditions.

4. Security / Monitoring Equipment should be required over the bandwidth of STM 4 or 1 GB and not at 2 mbps and that too, at Infrastructure Provider's facility.

5. Limit of 40 bits encryption should be increased to 512 bits encryption. Over this limit, DoT should be informed by the users and not necessarily by the Service Providers.

6. ISPs should be recognized as Interconnection party.

7. UMS/Audiotex license should be part of ISP license.