

ASIA PACIFIC CARRIERS' COALITION
(Incorporated in the Republic of Singapore)

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25 April 2017

Telecom Regulatory Authority of India
Telecom Regulatory Authority of India
Mahanagar Door Sanchar Bhawan,
JawaharLal Nehru Marg,
New Delhi-110002
INDIA

By Email

Attention: **Shri Sanjeev Banzal**
Advisor (Network, Spectrum & Licensing)

Email: advmn@traigov.in

Dear Sir,

APCC response to TRAI Consultation Paper dated 14th March 2017 on Ease of doing Telecom Business in India

The **Asia Pacific Carriers' Coalition (APCC)** is an industry association of global and regional telecommunications carriers operating in the Asia Pacific region, formed to work with governments, National Regulatory Authorities (NRAs) and users in advocating open market policies and best practice regulatory frameworks in order to promote competition and efficient investment in telecommunications markets.

APCC is pleased to submit its response to TRAI on its Consultation Paper on ease of doing telecom business in India. We appreciate the opportunity to provide our comments on such an important subject matter and trust that our response would merit due consideration of the authority.

Thanking you,
Respectfully submitted

Yours sincerely,



Simon SMITH
President
Asia Pacific Carriers' Coalition (**APCC**)

Encl: Annexure I

Annexure I

APCC response on TRAI CP on Ease of doing Telecom Business in India

APCC welcomes the initiative by the Hon'ble authority to assess the gaps in the present policy and seek industry views on ways to ease up doing of business in India to make the telecom sector competitive in line with the government's initiative to create a business friendly environment in India across all sectors. This is also a key enabler for realizing the Digital India vision of the Hon'ble Prime Minister and we are sure with the right policy impetus from the regulator, India would continue to be a preferred investment destination second to none.

It is relevant to note that a recent survey initiated by a consulting firm indicated an encouraging trend regarding India moving up the rankings on ease of doing business.

Interestingly the news report indicate that India has improved its ranking in the Ease of Doing Business 2017 report of the World Bank in four of the ten indicators - trading across borders, getting electricity, enforcing contracts and paying Taxes. But the overall position, which remained at 130 among 189 countries, is a matter of great concern.

Thus the step initiated by the TRAI is a welcome step towards further easing & opening up the telecom sector in India.

<http://www.dnaindia.com/money/report-evolve-political-consensus-on-ease-of-doing-business-says-iacc-2401685>

Our comments are divided into 2 sections for ready reference:

1. Section 1: Issues that can be addressed via clarification in the existing policy to ease up doing of business; and
2. Section 2: Issues that can be addressed via revised policy framework to speed up ease of doing business.

Section 1: Issues requiring clarification in existing policy

a) Removing restrictions on cross-border data movements

Currently telecom carriers in India are prohibited from sending some types of user and accounting data across borders. This results in such carriers being unable to provide global communications solutions in India and requires them to develop bespoke local solutions through Indian data centres at significant additional cost and time. It also makes it impossible for carriers to provide some services altogether – whenever they are dependent on platforms, based on the cloud located outside of India. This often prevents enterprise customers from realising the economic benefits associated with their use.

Although many legitimate public policy concerns are driving the data localisation trend, the laws that result can have unintended economic consequences. This is because, in a globalised information economy, providers of communications services to enterprise customers need to configure cloud applications across multiple jurisdictions, and a requirement for data localisation impedes effective service delivery.

Global enterprises recognise their own customers' demand for robust data security and data protection. However, regulations that seek to achieve this through simply restricting cross border data flows may be a blunt instrument for achieving this. In particular, such measures may prevent global companies from realising the wide ranging economic benefits associated with cloud and hosting services.

APCC suggestion: We understand that this matter is currently being reviewed by TRAI under the ambit of consultations on Cloud Computing and M2M. APCC kindly recommend that TRAI review the current data localisation requirements for telecom carriers in India for removal of such restrictions to cross-border data flows.

b) Infrastructure Sharing amongst licenses

We note that DoT has allowed sharing of passive and some of active (limited) infrastructure. Presently there are still some restrictions on the sharing of both active and passive infrastructure between various telecom operators and infrastructure providers. This has resulted in unnecessary duplication of infrastructure, which could lead to further issues to industry moving forward as operators consider moving into NGNs and new technologies, and where there are extremely heavy costs involved. All infrastructure/ equipment sharing should be permitted without any restrictions, to ensure effective and efficient usage of costly telecom equipment's/infrastructure built. This will ultimately lead to higher utilization, leading to reduction in OPEX for service providers and better business case for infrastructure creators. Being a capital intensive activity where the ARPU is declining, Policy makers/regulators must allow sharing the telecom infrastructure for optimum usage subjected to mutual agreement between TSPs.

APCC suggestion: Clarification to be issued to allow full-fledged sharing of infrastructure.

c) Simplification of OSP registration and it's compliance requirements

We understand that DoT is in the process of simplifying the OSP registration & compliance requirements, we would request that the revised OSP policy is issued on priority after taking into consideration industry suggestion regarding simplification and removal of onerous requirements.

Section 2: Revised policy framework to speed up ease of doing business

a) Double assessment of License Fee:

We note that as per the current policy there is a double levy of license fees on the same service's revenue and the restrictive policy has been in operation for the last decade. In simple terms, the telecom License service providers pay license fees while paying input cost as well as part of the sale cost while selling to end user. This policy not only hurts the sentiment of investor but also impacts the business margin. It also creates regulatory imbalance between vertically integrated operator. Since telecom is capital intensive sector & requires a lot of investment due to this hurdle India would not be able to attract the investment in the telecom sector.

Even in the just released VNO license this anomaly exists due to which this license has not be as successful as the government would have desired. In the VNO license, the entity is required to pay the license fee while purchasing the bandwidth from the

TSP and again while selling it to end user resulting in double levy of License fee.

APCC suggestion: The current AGR definition under the License should eliminate the issue of multi stage assessment of license fee which is currently in vogue and severely impedes competition and affordability of the enterprise services. The input cost (i.e. bandwidth cost for data) should be allowed as deduction while calculating AGR.

b) Reduction in the USO levy:

The USO levy which is a major portion (5%) of current license fees needs to be significantly reduced. TRAI in its recommendations on Unified License dated October 2003 has noted that the license fee should cover USO (5%) and administrative cost (1%) in contrast to 3% currently. The license fee has been significantly reviewed from 15% to 8% currently. However, the USO levy has remained consistent at 5%.

APCC suggestion: Review the present rate of LF and especially the USO component should be reduced gradually at the level of 0~3% only in line with TRAI recommendations.

c) Encryption policy

License condition for TSPs restricts users/customers to use 40 bit encryption and beyond that all users are required to take approval from DoT.. Higher bit encryption is being used in many sectors as many sectorial regulators like RBI also mandates for 128 bit and above encryption. In this regard, policy modification is pending for last 7-8 years.

APCC suggestions: Initiate industry consultation on the matter to seek industry views & thereafter Issue encryption policy which is flexible and aligned with the emerging technology trends.

d) Review of the License to facilitate seamless IP-PSTN interconnection

In order to realize the true potential of convergence of services, network and devices and to achieve the stated objectives of the convergence goals of Network / Services / devices, the restrictions/ barriers between different PSTN / IP/ CUG-PSTN networks should be removed under various License to ensure seamless interconnection.

In the today's world of convergence all the regulatory imbalances in the area of interconnectivity should be removed. The telecom service provider or the consumer/user should have the option to choose the type of connectivity itself. The license conditions should be flexible enough to enable the user or TSPs to offer any type connectivity accordingly. This regulatory imbalance if removed will go in long way in promoting ease of doing telecom business in India. Convergence will enable a much advanced and open IP platform which will enhance the end-user experience and will efficiently address the growing business needs by leveraging on the best of both worlds (CUG & PSTN). We note that some APCC stakeholders do not see this as a restriction or a barrier to ensure seamless interconnection.

APCC suggestion: Review of the existing terms and conditions of the license to enable seamless IP-PSTN interconnection.