

**BIF RESPONSE TO TRAI CP ON INTRODUCTION OF DIGITAL CONNECTIVITY  
INFRASTRUCTURE PROVIDER (DCIP) AUTHORIZATION UNDER UNIFIED  
LICENSE (UL)**

**Q 1. Comments of stakeholders are invited on the proposed DCIP Authorization under UL (attached at Annexure V). They may also offer their comments on the issues flagged in the discussions on terms and conditions and scope of the proposed authorization. Any suggestive changes may be supported with appropriate text and detailed justification.**

**Q 2. Are there any amendments required in other parts/chapters of UL or other licenses also to make the proposed DCIP authorization chapter in UL effective? Please provide full details along with the suggested text.**

**Q3. Are any issues/hurdles envisaged in migration of IP-I registered entities to the proposed DCIP Authorization under UL? If yes, what are these issues and what migratory guidelines should be prescribed to overcome them? Please provide full text/details**

**Q 4. What measures should be taken to ensure that DCIP Licensee lease/rent/sell their infrastructure to eligible service providers (i.e., DCI items, equipment, and system) on a fair, non-discriminatory, and transparent manner throughout the agreed period? Please provide full details along with the suggested text for inclusion in license authorization, if any.**

**Q 5. How to ensure that DCIPs lease/rent/sell out the DCI items, equipment, and system within the limit of their designed network/ capacity so that the service delivery is not compromised at the cost of other eligible service provider(s)? Please suggest measures along with justification and details.**

**Q 6. Stakeholders may also submit their comments on other related issues, if any.**

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At the outset we will like to draw attention on the events leading to the present consultation paper and then comment on the process, decisions taken and issues in the consultation paper.

**A. SEQUENCE OF EVENTS**

1. The **NDCP-2018**, in its strategy for establishing a 'National Broadband Mission — *Rashtriya Broadband Abhiyan*' to secure universal broadband access, envisages enhancement in the scope of Infrastructure Providers. The relevant clause 1.1 (f) of the policy is reproduced below:

*“Encourage and facilitate sharing of active infrastructure **by enhancing the scope of Infrastructure Providers (IP)** and promoting and incentivizing deployment of common sharable, passive as well as active, infrastructure.”*

2. A consultation paper on “Review of Scope of Infrastructure Providers Category-I (IP-I) Registration” was issued by TRAI on 16 August 2019. Its purpose was to seek the views of stakeholders on review of the scope of IP-I registration for promoting and incentivising the deployment of common sharable, passive as well as active, infrastructure.
3. The Authority in its **recommendations dated 13 March 2020** on “Enhancement of Scope of Infrastructure Providers Category-I (IP-I) Registration” **recommended that scope of the IP-I registration should be enhanced and expanded to include passive and active infrastructure (excluding core network element and spectrum).**
4. However, it is noted from the present Consultation Paper that **DoT vide letter dated 11 August 2022** has conveyed that TRAI’s recommendations on Enhancing the Scope of IP-I Registration **cannot be accepted due to the legal opinion sought by DoT on this issue**, where it has been opined that:
  - (i) Active Infrastructure can be provided only by Telecom Licensees.
  - (ii) IP-I registration holders cannot be allowed to provide active infrastructure under their IP-I registration unless they are shifted to licensing regime.
5. It is further noted that DoT in its said letter **has stated that competent authority has decided for creation of a new category license ‘Telecom Infrastructure License (TIL)’**. Such licensees may be permitted to establish, maintain, and work all equipment for wireline access, radio access and transmission links, except the core equipment and holding of spectrum. Further, the department is of the view that IP-I registration holders (existing/new) may also be permitted to obtain Telecom Infrastructure License on voluntary basis. DoT ***has sought recommendations for the terms and conditions of such license***, applicable license fee etc. under section 11(1) (a) of the TRAI Act 1997. DoT has suggested some broad parameters for examination by TRAI while formulating these recommendations.
6. TRAI, in the present consultation, **has sought views of the stakeholders on a new authorisation category of Digital Connectivity Infrastructure Providers (DCIP), where it can be issued as an authorisation under Unified License.**

## **B. IP-I REGISTRATION HOLDERS CAN BE PERMITTED TO PROVIDE ACTIVE INFRASTRUCTURE UNDER IP REGISTRATION**

1. We respectfully submit that **NDCP 2018 (“Policy”)** was issued by the Government of India, after seeking detailed comments of all the stakeholders and it is the basic document defining the framework and goals for Digital Communications. It is very discouraging to see that even after more than 4 years, the critical issue of **enhancing the scope of Infrastructure Providers (IP)** is still under discussion when the Policy itself clearly enunciated that the scope of the infrastructure providers (IPs) needs to be enhanced to encourage and facilitate sharing of active infrastructure. **The Policy mentioned about enhancing the scope of IPs to provide active infrastructure which meant that IPs will be allowed to provide active infrastructure under their IP-I registration and it further meant that DoT, in principle, unambiguously reversed its decision of 28 November 2016 which did not permit owning and sharing of active infrastructure by IP-Is.**
2. TRAI, in its recommendations dated 13 March 2020 on “Enhancement of Scope of Infrastructure Providers Category-I (IP-I) Registration” recommended that scope of the IP-I registration should be enhanced and expanded to include passive and active infrastructure (excluding core network element and spectrum) and in these recommendations it extensively dealt with the legal aspects justifying provision of such sharing by IP-Is in **Para 2.36 to Para 2.46 of such recommendations.**
3. However, in the present Consultation paper it is only stated that **DoT vide letter dated 11 August 2022** has conveyed that TRAI’s recommendations on Enhancing the Scope of IP-I Registration **cannot be accepted due to the legal opinion sought by DoT on this issue**, where it has been opined that IP-I registration holders cannot be allowed to provide active infrastructure under their IP-I registration unless they are shifted to licensing regime. No details with respect to this opinion have been shared with the stakeholders.
4. We respectfully submit that there is a merit in the view taken by TRAI’s recommendations dated 13 March 2020 on “Enhancement of Scope of Infrastructure Providers Category-I (IP-I) Registration”.
5. To substantiate, we will further like to draw attention to PM-WANI Guidelines issued by DoT on 11 December 2020, which allows PDOAs to aggregate multiple WANI enabled Wi-Fi Access Points being operated by individual PDOs and authorize the subscribers, authenticated by the App Provider, to access internet services and also allows App Providers to develop and maintain a software

application and backend authentication infrastructure for users to signup, discover WANI compliant Wi-Fi hotspots, and do single-click connect from within the App, **provided they are registered and abide by terms and conditions of the respective guidelines**. As per these guidelines, the PDO can establish, maintain, and operate only WANI compliant Wi-Fi Access Points and it can connect its Wi-Fi Access Point with Internet through networks of licensed Service Providers only in that area.

The DoT's PM WANI Guidelines validate registration of PDOAs and App Providers.

6. It is additionally submitted that **active infrastructure with infrastructure provider will remain 'passive' and in non-operating condition until powered by a service provider**. Unlike active infrastructure sharing by a Telecom Service Provider providing services, where the infrastructure will be operational by such Telecom Service Provider providing services, no such operation can be done by infrastructure provider. The operation will only be done by the Telecom Licensees who will take infrastructure on rent or lease from the infrastructure provider. **Therefore, elements of active Infrastructure, in non-operational condition, can be provided by infrastructure provider under registration considering that it can provide such infrastructure only to Telecom Service Providers who provide service under Telecom Licenses.**
  
7. **Consistency in regulations and alignment between policy and regulations are the key factors for investors' confidence which provide the roadmap for strategic decision making and long term investments. Thus, in light of various precedences like:**
  - DoT having allowed registration for passive sharing;
  - DoT in its clarification dated 22 May 2018 having clarified that under clause 2(d) of the RoW Rules 'licensee' includes Infrastructure Providers Category-I (IPs-I),
  - The definition of "Telegraph" in the Indian Telegraph Act not distinguishing between active and passive infrastructure;
  - DoT's PM WANI Guidelines in December 2020 permitting registration for PDOAs and App Providers; and
  - NDCP 2018 providing for enhancement of scope of infrastructure providers to encourage and facilitate sharing of active infrastructure , **a change in stand for such sharing as regard to the framework and any further delays will not be conducive for the sector.**

8. Thus, we respectfully submit that TRAI and DoT should consider all the aspects and they should take steps to enhance the scope of IPs to provide active infrastructure i.e. that IPs to be allowed to provide active infrastructure under the IP1 registration. There is no need for any new license or an authorisation under the Unified License for such purpose. We request that TRAI should lay emphasis on its earlier recommendations of 13 March 2020.

**C. ACTIVE INFRASTRUCTURE TO BE PROVIDED BY ENTITIES REGISTERED AS IPs TO TELECOM LICENSES WHO ARE PROVIDING SERVICES, IPs NOT TO PROVIDE ANY SERVICE TO ANY OTHER SERVICE PROVIDER OR OTHER CUSTOMER**

In the present framework (Guidelines of DoT for Infrastructure Providers Category-I dated 22nd December 2021) IP-I can provide assets such as Dark Fibre, Right of Way, Duct space, and Tower on lease/ rent out/ sale basis to licensees of telecom services on mutually agreed terms and conditions. In no case these companies can work and operate or provide telegraph service including end to end bandwidth to any service provider or any other customer.

It is respectfully submitted that same principle of 'in no case companies can work and operate or provide telegraph service to any service provider or any other customer' should apply in case of elements in 'active' infrastructure. We reiterate that active infrastructure with infrastructure provider will remain 'passive' and in non-operating condition until powered by a service provider for services by that service provider to any other service provider or any other customer.

**It may be noted that infrastructure providers only provide assets on lease/ rent out/ sale basis that too only to Telecom Service Providers. Infrastructure providers are not providing services.**

**D. INFRASTRUCTURE PROVIDERS DO NOT COME UNDER THE SCOPE OF UNIFIED LICENSE FRAMEWORK, WHICH FRAMEWORK IS FOR SERVICES**

1. As infrastructure providers only provide assets on lease/ rent out/ sale basis that too only to Telecom Service Providers, they are not providing services as mentioned in Guidelines for Unified License. Thus, in such cases registration should suffice and current license related framework which is for service wise authorisation under Unified License is not applicable.
2. TRAI in its recommendations dated 13 March 2020 on "Enhancement of Scope of Infrastructure Providers Category-I (IP-I) Registration made a distinction between

the purposes of Unified License (UL) and IP-I registration. Para 2.36 of the said recommendations states as follows:

” Before reviewing the scope of IP-I registration, ***it is important to recognize its legal status. It is essential to acknowledge that the purposes of Unified License (UL) and IP-I registration are quite distinct. While the purpose of UL is to grant permission to deliver telecommunication services, the purpose of IP-I registration is to develop sharable telegraph infrastructure, which can be used by licensees to deliver telecommunication services.*** After the detailed analysis, once it is recognized that the registration of IP-I is nothing but a kind of license granted under Section 4 of the Indian Telegraph Act, 1885 for establishing and maintaining telegraph within its limited scope, legally the scope of IP-I registration can include any telegraph item. In such a situation, the only consideration would be the policy requirement. ***As mentioned earlier, the NDCP-2018 already recognizes that to achieve its objectives, we need to encourage and facilitate sharing of active infrastructure by enhancing the scope of Infrastructure Providers (IPs).*** “

3. As per this the purpose of UL is to grant permission to deliver telecommunication service, which is not the purpose in case of infrastructure provider registration. The Guidelines for Unified License dated 17 January 2022 state as follows:

“2(ii).

Applicant can apply for Unified License along with authorisation **for any one or more services listed below:**

- a. Unified License (All Services)
- b. Access Service (Service Area-wise) as per details at Annexure- IV
- c. Internet Service (Category-A with All India jurisdiction)
- d. Internet Service (Category-B with jurisdiction in a Service Area as per details at Annexure- IV
- e. Internet Service (Category-C with jurisdiction in a Secondary Switching Area) as per details at Annexure- II
- f. National Long Distance (NILD) Service
- g. International Long Distance (ILD) Service
- h. Global Mobile Personal Communication by Satellite (GMPCS) Service
- i. Public Mobile Radio Trunking Service (PMRTS) Service
- j. Very Small Aperture Terminal (VSAT) Closed User Group (CUG) Service
- k. Audio Conferencing/ Audiotex/ Voice Mail Services
1. Machine to Machine (M2M) (Category-A with All India jurisdiction)

m. Machine to Machine (M2M (Category-B with jurisdiction in a Service Area  
n. Machine to Machine (M2M (Category C with jurisdiction in a SSA/ District)  
Authorisation for Unified License (All Services) would however cover all services listed at para. 2(ii) (b) in all service areas, 2 (i) (c), 2 (ii) (1) to 2(ji) (1) above.”

**Thus, the Guidelines for Unified License are for authorisations which are in nature of respective services. Infrastructure Provider does not fall within the scope of the Guidelines of Unified License. A Unified Licensee has the option, if eligible, to apply for one or more authorisations and the terms and conditions in the Guidelines for Unified License are mostly common to all authorisations and hence they get reflected in Part 1 of the Unified License.**

4. The respective conditions in Part 1 of the Unified License for any authorisation **cannot be changed without amending the Guidelines for United License, which may be matter of separate discussion.**
5. Without prejudice to our contention that infrastructure providers should be permitted to provide elements of active infrastructure through registration, we refer to Clause 4 of Annexure V of the present Consultation Paper which deals with “Part I of UL Conditions that will not be applicable for Licensees having only DCIP Authorization “. In this there are many conditions of UL like 1.5, 1.6, 1.7, 2.3, 2.4, 7, 8 ,18.2, 18.3, 18.4, 19, 20, 21.2, 22 ,24.1, 25.1, 29 ,30.1, 30.2, 30.3(b), 30.4, 30.5, 30.6, 30.7, 30.11, 31, 32.2, 34, 35, 37.2, 37.3, 37.4, 38.1, 38.2, 38.3 ,39.2, 39.10(ii), 39.11 (i), 39.11 (ii), 39.11 (iv), 39.12, 39.13, 39.15, 39.17, 39.18, 39.19, 39.20, 39.21, 39.22, 39.23(ii), 39.23(iii), 39.23(iv), 39.23(v), 39.23(viii), 39.23(ix), 39.23(x), 39.23(xvi), 39.23(xvii), 39.23(xix), 39.23(xx) ,41, 42 that are suggested to be not applicable for Licensees having only DCIP Authorization. Though the objective is to make the licensing conditions light touch, however, the proposed changes are so many and so material in context of Guidelines for Unified Licensing that it creates a new license all together which is not conforming to Guidelines for Unified License. This, in our view, is a structural and fundamental change in the license which will lead to many complications and these changes, in fact change the subject matter of the Unified License. This approach makes the Guidelines for Unifed License meaningless.
6. **Without prejudice to our contentions that infrastructure providers should be permitted to provide elements of active infrastructure through registration,** it is respectfully submitted that DoT in its letter dated 11 August 2022 has stated that the competent authority has decided **for creation of a new category of license namely 'Telecom Infrastructure License (TIL)**. Such licensees may be

permitted to establish, maintain and work all equipment for wireline access, radio access and transmission links, except the core equipment and holding of spectrum. DoT has stated that the department is of the view that IP-I registration holders (existing/ new may also be permitted to obtain Telecom Infrastructure License on voluntary basis. DoT has requested TRAI to give recommendations for the terms and conditions of such license, applicable license fee etc. under section 11(1) (a) of the TRAI Act 1997 and it suggested some broad parameters for examination by TRAI while formulating these recommendations. In the broad parameters suggested, DoT has stated that TIL may be a standalone License, since making TIL a part of UL will automatically make 'Part-I' of UL applicable to TIL also and light regulations for TIL may not be feasible.

7. **We respectfully submit that the regulatory discussions and framework should be consistent to enable businesses to take long term decisions. If as per TRAI's own recommendations dated 13 March 2020, Infrastructure Providers are not falling in the scope of Unified License then that position should be consistently maintained. Substantial time has been lost in giving due permission to infrastructure providers for providing active infrastructure to licensees through registration and with DoT's reference to TRAI for a new license as against TRAI's present consultation of authorisation under Unified License, there is a further uncertainty.**
- E. **IN LIGHT OF OUR SUBMISSIONS ABOVE, WE EARNESTLY REQUEST THAT THE PERMISSION FOR PROVIDING ACTIVE INFRASTRUCTURE SHOULD BE AS PER THE REVISED IP-I REGISTRATION FORMAT AS GIVEN IN THE ANNEXURE-E ATTACHED TO THE TRAI RECOMMENDATIONS DATED 13 MARCH 2020 AND TRAI SHOULD ACCORDINGLY RECOMMEND IT TO DoT AS THE PRIMARY RECOMMENDATION.**
- F. **A NEW, STANDALONE, LICENSE, LIKE TELECOM INFRASTRUCTURE LICENSE (TIL), IS NOT NEEDED**

NDCP 2018 was issued by Ministry of Communications, DoT vide Gazette Notification on 22 October 2018 and, as mentioned earlier, the policy specifically provided strategy to connect India by encouraging and facilitating sharing of active infrastructure by enhancing the scope of Infrastructure Providers (IP) and promoting and incentivizing deployment of common sharable, passive as well as active, infrastructure. For the reasons given earlier, we respectfully submit that TRAI and DoT should consider how the policy can be executed in the manner as enunciated and as soon as possible, which will cause no disturbance and in fact



will enhance the scope of IPs and not force them to migrate to some new license. The factors like consistent framework need due consideration.

**G. CONSIDERING THAT IMPLEMENTATION OF THE 2018 POLICY DECISION ON THIS SUBJECT SHOULD BE DONE SOON, THEREFORE, IF OUR SUBMISSIONS ABOVE ARE NOT BEING ACCEPTED THEN AS THE LAST RECOURSE AND WITHOUT PREJUDICE, WE SUBMIT THAT A STANDALONE AND LIGHT TOUCH LICENSE SHOULD BE CONSIDERED.**

We respectfully submit that if our submissions above are not getting accepted then as the last recourse, we are constrained to submit that a standalone and light touch license should be considered.

In such case the standalone licenses can have conditions as mentioned in revised IP-I registration format as given in the Annexure E attached to the TRAI recommendations dated 13 March 2022. These licensees must be lightly regulated in order to give a boost to investment in telecom infrastructure in the country. Light regulations will be possible under a new standalone license and it cannot be made part of UL. Moreover, as mentioned earlier, the license will not be for provision of service but to rent/lease /sell active and passive infrastructure assets to other licensees.

The license fee to be levied on such licensees should be only a token amount of license fee (I.e. Re 1/-) which will boost investment in telecom infrastructure. This is important considering such licenses will not be providing any services but will only be renting/leasing, selling infrastructure to telecom licensees.

Since such licensees will be having a wide scope with All-India permission to install all active and passive equipment (except Core equipment and Spectrum), a reasonable entry fee (Rs.20 lakhs) may be explored to avoid non-serious players. There should not be any other requirement linked to equity, net worth, PBG or FBG.

Such licensee should provide items, equipment and systems on mutually agreed terms and conditions to eligible service provider in fair, reasonable and non-discriminatory manner.

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