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Shri Akhilesh Kumar Trivedi,
Advisor (Network, Spectrum and Licensing),
Telecom Regulatory Authority of India,
4th, 5th, 6th & 7th Floor, Tower- F,
World Trade Centre, Nauroji Nagar
New Delhi - 110029

Subject: ISPAI response to TRAI's Consultation Paper on "The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023"

Dear Sir,

We congratulate the Authority to have come out with this Consultation paper on the matter captioned above and sincere thanks for providing us the opportunity to submit our response on this important issue.

We have enclosed our comprehensive response for your consideration.

We believe that the Authority would consider our submissions positively on the subject matter.

Thanking you,

With Best Regards,
For Internet Service Providers Association of India



Rajesh Chharia
President
+91-9811038188
rc@cjnet4u.com

Encl: As above

ISPai Response to TRAI Consultation Paper on “The Terms and Conditions of Network Authorisations to be Granted Under the Telecommunications Act, 2023”

Issues for Consultation

Scope of IP-1 & DCIP authorizations

Q1. Whether there is a need to merge the scopes of the extant Infrastructure Provider-I (IP-I) and Digital Connectivity Infrastructure Provider (DCIP) authorization (as recommended by TRAI in August 2023), into a single authorisation under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

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Q2. In case your response to the Q1 is in the affirmative, kindly provide a detailed response with justifications on –

(a) Eligibility conditions for the grant of the merged authorisation; and

(b) Area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the merged authorisation.

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Q3. In case your response to the Q1 is in the negative, -

(a) What changes (additions, deletions or modifications) are required to be incorporated in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the IP-I authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 as compared to the extant IP-I registration?

(b) Whether there is a need to make certain changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the DCIP authorisation (as recommended by TRAI in August 2023)? If yes, kindly provide a detailed response with justifications.

Response:

IP-I registration was introduced to facilitate the construction of passive infrastructure essential for TSPs/ISPs, and it was provided without a license fee. However, the TRAI recommendation expanded the scope of IP-I by introduction of DCIP to encompass all active infrastructure, excluding the core network, but proposed it be licensed without a license fee. During the TRAI consultation process, TSPs strongly argued either to exclude DCIP from consideration or to impose a license fee on it for two main reasons:

- a) Placing DCIP in a cost advantage over Access/NLD/ISP businesses due to the license fee discrepancy.
- b) The high potential for license arbitrage, as similar services provided by Access/NLD/ISP and DCIP could be subject to different license fee obligations.

Furthermore, given historical developments, all operators have already deployed their networks. It is therefore sensible to encourage infrastructure sharing, both passive and active, between licensees/authorizations and different licenses/authorizations held by the TSP itself by allowing pass-through to avoid the multi-levy of license fees.

For these reasons, we suggest the following:

- There is no need for DCIP authorization and IP-I authorization is sufficient for separation of infrastructure layer.

In-building solution (IBS) related

Q4. (a) Which telecommunication equipment/ elements should be included in the ambit of ‘in-building solution’ (IBS)?

(b) Whether there is a need to introduce a new authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding in-building solution (IBS) by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it? If yes, what should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such an authorisation? Please provide a detailed response with justifications.

Response –

1. In majority of building, the in-building solutions cannot be installed by multiple entities due to limitation of space and many other reasons. Therefore, creating any special license/authorization for IBS will lead to monopolization of the IBS rights for each building.
2. The Access providers, creating the network through the auction spectrum has the sole right to transmit spectrum across the geography including the in-building locations. No third party right can be created for any person to utilize/transmit these frequencies in the name of In-building service provider.
3. Further, any specialized license to IBS providers will enable them to abuse their monopolistic position and charge very high charges the TSPs arbitrarily, thereby, creating denial of RoW permission to TSPs as well as good in-building service to consumers. Due to distributed nature of buildings and their rights, even TRAI will not be able to regulate the IBS charges on the basis of cost.
4. At present, some building owners, especially the public places like Airport, Metro etc sell the monopolistic rights to some IP-1 (despite the fact that such IP-1 cannot install the active equipment) through bidding or otherwise. Such IP-1 entities are then demanding exploitative pricing for IBS. Such practice need to be immediately stopped. This practice is not only allowing the IP-1 operators to illegally utilize the spectrum of the TSPs, but is also allowing them to extract huge money from TSPs due to monopolistic RoW rights provided to them by such public entities. At many places such third party IBS providers create low capacity and poor QoS

network and do not timely upgrade the network which leads to poor quality of services to the consumers.

5. TRAI should leave the IBS installation to the operators and should not propose to create any third party interfering in their TSPs networks. As far as sharing of IBS is concerned, TSPs has many examples where the shared IBS have been created by them through direct agreement without any need of third party.
6. TRAI should encourage the creating of IBSs directly by TSPs so that unnecessary costs are not loaded to customers.
7. Further, TRAI should direct the public entities i.e. Airport, Metro, Hospitals, Railways etc under whose control of public places are, to provide the RoW permission for building IBS strictly as per Telecommunication Act, 2023 and the rules thereof. No public entity shall resort to any rent seeking practice.

CDN & IXP related

Q5. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Content Delivery Network (CDN) authorisation, as recommended by TRAI on 18.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the CDN authorisation? Kindly provide a detailed response with justification.

Response:

CDNs enhance network performance by lowering latency and reducing network congestion due to their closeness to end-users. CDNs should be exempt from licensing fees but must comply with security standards. Content should always be blocked by issuing orders directly to CDN or platform hosting the content in India or to the content providers.

CDN & IXP related

Q6. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Internet Exchange Point (IXP) authorisation, as recommended by TRAI on 18.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the IXP authorisation? Kindly provide a detailed response with justification.

Response –

IXPs serve as physical interconnection points, enabling autonomous networks—such as Internet Service Providers (ISPs), data centers, and content providers—to exchange internet traffic locally. They function as neutral platforms that facilitate efficient data routing and reduce latency. Unlike telecommunication networks, IXPs do not provide end-to-end connectivity or telecommunication services directly to end-users. Therefore, IXPs do not meet the criteria for "telecommunication services" under the Act.

IXPs play a very important supporting role in broadband proliferation. There is a huge underserved population in the country who need reliable and affordable broadband connectivity at homes and offices.

It is imperative that ISPs flourish in these places which are further supported by IXPs. It is important that IXPs remain deregulated as it will help IXPs to expand their infrastructure to remote areas. Any regulation will only hamper the IXP sector which is at a very nascent stage but has shown promise in helping ISPs provide high speed broadband with unlimited data to their customers.

Accordingly ISP AI proposes that IXPs be exempt from any authorization requirements. If at all the authority feels it is absolutely necessary to have some oversight on the IXPs, a minimal light touch authorization may be applied.

Q7. Whether there is a need to make any changes in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the Satellite Earth Station Gateway (SESG) authorisation, as recommended by TRAI on 29.11.2022? If yes, what changes should be made in the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the SESG authorisation? Kindly provide a detailed response with justification.

No Comment
Q8. Whether there is a need to introduce a new authorisation for establishing, operating, maintaining or expanding satellite communication network, which may be used to provide network as a service to the entities authorised under Section 3(1)(a) of the Telecommunications Act, 2023? If yes-

(a) What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such authorisation?

(b) Whether an entity holding such authorisation should be made eligible for the assignment of spectrum for both feeder link as well as user link? Kindly provide a detailed response with justification.

Response : No Comment

Cloud-hosted telecommunication networks related

Q10. Whether there is a need to introduce an authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks, which may be used to provide telecommunication network as a service to the authorised entities under Section 3(1)(a) of the Telecommunications Act, 2023? If yes, what should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of such an authorisation? Kindly provide a detailed response with justifications

Response -

We feel that the underlying intent is to leverage the technological developments, such as virtualisation of telecom infrastructure, which can bring flexibility and provide benefits to service providers, especially service provider operating at smaller scale. However, it is also essential to protect national interests, such as ensuring security etc., and also to ensure level playing field in the sector. To achieve the same, while leveraging benefits of technological advancements, we believe that infrastructure sharing can be encouraged by allowing pass through in case of infrastructure sharing. This will obviate the necessity of introducing a specific authorisation for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks. We sincerely believe that introduction of such authorisation could lead to possibility of regulatory arbitrage and uneven playing field; therefore, the best possible way to leverage technological developments is to encourage infrastructure sharing without introducing any new authorisation. Even in the current regulatory landscape, smaller ISPs take bandwidth from bigger service providers, based on market forces, without requiring introduction of a special authorisation; we believe that the same is possible for infrastructure sharing as well. Principles of Same Service & Same Rules should be applicable.

Cloud hosted service providers should not be subjected to regulatory or licensing authorization, except when the entity providing cloud services engages in network services, such as offering PSTN switching and routing capabilities. Even when such cloud service providers offer only space, power, racks, and virtual servers to TSPs to build core/non-core facilities, the revenues from these operations should not be subjected to license fees.

Mobile Number Portability Service related

Q11. What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions (general, technical, operational, security etc.) of the authorisation for Mobile Number Portability Service under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Response – No comments

Q12. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 considering the various sections including Sections 4 to 9, 19 to 24, 32 to 42, 44, 45, 49, and 55 of the Telecommunications Act, 2023 and technological/ market developments in the telecommunication sector? Kindly provide a detailed response with justifications.

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Q13. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 considering the policy/ Act in the Space Sector and other relevant policies/ Acts in the related sectors? Kindly provide a detailed response with justifications.

Response -

Any specific terms and conditions proposed to be included in authorizations under the provisions of the Telecom Act should be deliberated with the industry before being proposed.

Q14. What should be the terms and conditions for the merger, demerger, acquisition, or other forms of restructuring of the entities holding network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023? Please provide a detailed response with justifications in respect of each network authorisation.

Q15. What conditions should be made applicable for the migration of existing network licenses, registrations etc. to the new network authorisation regime under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Q16. What procedure should be followed for the migration of existing network licenses, registrations etc. to the new network authorisation regime under Section 3(1)(b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Response - No comments

Q17. Whether there is a need to introduce certain new authorisations (other than the authorisations discussed above) to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023? If yes, -

(a) For which type of telecommunication networks, new authorisations should be introduced?

(b) What should be the eligibility conditions, area of operation, validity period of authorisation, scope, and terms & conditions 75 (general, technical, operational, security etc.) of such authorisations? Kindly provide a detailed response with justifications.

Q18. Whether there is a need to remove certain existing authorisations to establish, operate, maintain or expand telecommunication networks, which may have become redundant with technological advancements?

If yes, kindly provide a detailed response with justifications.

Response – No comments.

Q19. Whether there is a need to club the scopes of certain authorisations to establish, operate, maintain or expand telecommunication networks into a single network authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for bringing more efficiency in the telecommunication networks? If yes, kindly provide a detailed response with justifications.

Q20. What provisions should be included in the terms and conditions of various network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023 to improve the ease of doing business? Kindly provide a detailed response with justifications.

Response – No comments.

Q21. Whether there is a need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network, and authorised entities providing telecommunication services? If yes, -

(a) Between which type of entities, reference agreements are required to be mandated?

(b) What should be the salient features of the reference agreements between such entities? Kindly provide a detailed response with justifications.

Response-

We are of the view that there is no need for mandating a reference agreement between authorised entities establishing, operating, maintaining or expanding the telecommunication network and authorised entities providing telecommunication services. It should be left to market forces and in case of market failure TRAI may consider the same for consultation in future.

Q22. Are there any other inputs or suggestions relevant to the subject? Kindly provide a detailed response with justifications.

Response - No comments.

IP-1 & DCIP related

Q23. In case it is decided for merging the scopes of the extant Infrastructure Provider-I (IP-I) and the Digital Connectivity Infrastructure Provider (DCIP) authorization into a single authorization under the Section 3(1)(b) of the Telecommunications Act, 2023, what should be the: -

(a) Minimum equity and networth of the Authorised entity.

(b) Amount of application processing fees

(c) Amount of entry fees

(d) Any other Fees/Charge

Please support your response with proper justification.

Q24. In case it is decided not to merge the scopes of IP-I and DCIP, what changes/ modifications are required to be made in the financial conditions of –

(a) DCIP authorisation as recommended by TRAI in August 2023

(b) IP-I authorisation under the Telecommunications Act, 2023 with respect to the extant IP-I registration?

Please provide a detailed response with justification.

Response –

As submitted under Q1-3, there is neither any need to introduce separate DCIP authorisation nor to club it with IP-I registration.

IBS related

Q25. In case it is decided to introduce a new authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding in-building solution (IBS) by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it, then-

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Response -

As submitted under Q4, there is no need to introduce a new authorisation for establishing, operating, maintaining or expanding IBS by any property manager within the limits of a single building, compound or estate controlled, owned, or managed by it.

IXP & CDN related

Q26. Whether there is a need to change/ modify any of the financial conditions of the IXP and CDN authorisations from those recommended by TRAI on 18.11.2022? If yes, please provide a detailed response with justification(s).

Response -

Please refer to our response to Q5 & Q6.

Satellite Earth Station Gateway (SESG) related

Q27. Whether there is a need to change/ modify any of the financial conditions of the Satellite Earth Station Gateway (SESG) authorization from those recommended by TRAI on 29.11.2022? If yes, please provide a detailed response with justification(s).

Q28. In case it is decided to introduce a new authorisation for establishing, operating, maintaining or expanding satellite communication network under Section 3(1)(b) of the Telecommunications Act, 2023, then, what should be the financial conditions for such authorisation?

Q29. In case it is decided to introduce an authorisation under Section 3(1) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding ground stations, which may be used to provide Ground Station as a Service (GSaaS), then:

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Response – No comments.

Cloud-hosted telecommunication networks related

Q30. In case it is decided to introduce an authorisation under Section 3(1)(b) of the Telecommunications Act, 2023 for establishing, operating, maintaining or expanding cloud-hosted telecommunication networks, which may be used to provide telecommunication network as a service to the authorised entities under Section 3(1)(a) of the Telecommunications Act, 2023, then:

(a) Whether there is a need to have financial conditions associated with such an authorisation?

(b) In case your response to the above is in the affirmative, then what should be financial conditions for such an authorisation?

Please provide detailed response with justification.

Response –

As submitted under Q10, there is no need to introduce a separate authorisation for establishing, operating, maintaining or expanding cloud-hosted telecom networks.

MNP related

Q31. For Mobile Number Portability Service authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, should the amount of entry fee and provisions of bank guarantees be: (a) kept same as per existing MNP license. (b) kept the same as recommended by the Authority vide its Recommendations dated 19.09.2023 (c) or some other amount/ provisions may be made for the purpose of Entry Fee and Bank Guarantees. Please support your response with proper justification.

Q32. For Mobile Number Portability Service authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, whether there is a need to review/ modify:

(a) Definition of GR, AGR, ApGR

(b) Rate of authorisation fee

(c) Format of Statement of Revenue Share and License Fee

(d) Norms for the preparation of annual financial statements

(e) Requirement of Affidavit

Please provide your response with detailed justification.

Response – No comments.

Migration related

Q33. What financial conditions should be made applicable for the migration of the existing licensees/ registration holders to the relevant new authorisations under section 3(1) (b) of the Telecommunications Act, 2023? Kindly provide a detailed response with justifications.

Response – No comments.

New Authorizations related

Q34. In case it is proposed for introducing certain new authorisations to establish, operate, maintain or expand telecommunication networks under Section 3(1)(b) of the Telecommunications Act, 2023, what should be the respective financial conditions for each of such authorisation(s)? Please provide a detailed response with justifications in respect of each network authorisation, separately.

Q35. What should be the financial conditions for the merger, demerger, acquisition, or other forms of restructuring of the entities holding network authorisations under Section 3(1)(b) of the Telecommunications Act, 2023? Please provide a detailed response with justifications in respect of each network authorisation.

Q36. In case it is decided to club the scopes of certain authorisations to establish, operate, maintain or expand telecommunication networks into a single network authorisation under Section 3(1)(b) of the Telecommunications Act, 2023, then, what should be the financial conditions for such authorisations? Please provide a detailed response with justifications for each network authorisation, separately.

Q37. Whether there are any other issues/ suggestions relevant to the fees and charges? The same may be submitted with proper explanation and justification.

Response – No comments.