



**Telecom Regulatory Authority of India**



**Recommendations on**

**Guidelines for Unified Licence/Class Licence**

**and**

**Migration of Existing Licences**

(w.r.t. the reference received from DoT on the  
recommendations of 16<sup>th</sup> April 2012)

**New Delhi 12<sup>th</sup> May, 2012**

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## **I. Guidelines for Unified Licence**

### **A. Unified Licence**

#### **1. Framework**

- 1.1 *There shall be three levels of Unified Licence: National level, Service area level and District level. The Applicant Company can apply either for National level Unified Licence or Service area level Unified Licence or District level Unified Licence. Only Service level Unified Licence will be given for Metro areas of Delhi, Mumbai and Kolkata.*
- 1.2 *For the purpose of the Unified Licence, the service areas shall be as listed in Annexure –I.*
- 1.3 *A company can apply for Unified Licence in more than one service area or district. However, if a company desires to apply for Unified Licence in more than four districts in a service area, it has to apply for Service area level Unified Licence.*
- 1.4 *Subject to fulfilment of relevant eligibility conditions, Licence shall be issued on non exclusive basis, without any restriction on the number of licences.*
- 1.5 *In addition to a Unified Licence, TRAI reserves the right to award/allocate Licences to offer specific services like Mobile Number Portability (MNP) services and such other services as may be decided by TRAI from time to time.*
- 1.6 *At the time of applying for Unified Licence, no access spectrum will be given. A holder of Unified Licence, other than District level Unified Licence, may separately obtain spectrum as per the prevailing policy.*

## **Views of the DoT**

Though the services under National Unified licence will cover the total country, it is noted that TRAI has not specified the whether the service area of National Unified licence shall be one national service area or a summation of 22 service areas to keep consistency with service area UL. Accordingly whether the networks have to be single nationwide networks in a single SA or 22 networks under one licence.

For provision of access services it is recommended that administration of national unified licence would be service area wise for all aspects including LF/SUC /PBG/FBG /roll-out/numbering plan etc. Separate accounts will have to be maintained service area wise for assessment and deduction etc.

TRAI has dealt with district level licence from para 2.1 to 2.15 of recommendations. It is noted that the objective of the current exercise is unification of licences and district level licence which will be without spectrum as recommended, hence DL would be providing only ISP and fixed services and may not serve the purpose of a unified licence. Secondly, holder of such a licence is allowed to work as MVNO as recommended by TRAI in para 2.15. TRAI has already made recommendations regarding MVNO as a part of its recommendations on Infrastructure Policy which are under consideration of the Government. Further in the draft telecom policy 2012, there is a proposal to delink licensing of network from delivery of services. Services to be covered under DL need to be indicated so that this concept fit in to the proposed NSO/SDO scheme seamlessly.

Moreover, TRAI in its recommendation in 2010 had recommended to reintroduce category 'C' ISPs and later, on reconsideration TRAI had recommended to give District level UL in place of ISP licence.

Govt. did not support the idea of District Licence. However, re-introduction of ISP cat 'C' licence was agreed by DoT in-principle.

In view of the above, district level licence may be considered after the policy on MVNO is finalised and after a view is taken about the framework of network level licence and service level licence based on the NTP which may be finalised soon by the Government.

However, in order to facilitate the objective of rural broadband penetration, whether the scope of licences at district level be restricted to provide internet services by providing last mile connectivity without assignment of licenced Access spectrum. However, backhaul spectrum if required shall be facilitated subject to availability. This licence may be renamed as per the character of services to be provided like Unified Licence- Last Mile Internet.

TRAI may provide guidelines/term & conditions for such licence.

Regarding para 1.2, it is seen from Annexure-I that categorisation of service areas as A,B and C has been abolished. However, it appears that A,B,C categorisation needs to be continued till atleast the Uniform Licence fee regime is fully implemented which is envisaged in two stages.

Secondly, for service areas where adjoining geographies of adjoining states are already included in the UASL licence, for such geographies the USAL licence describes the limit as the local telephone exchange system of such geographies. This has now been recommended to be changed to municipal areas. It is noted that some of these areas are administered by an authority and there is also a possibility that local exchange systems may cover more area than the municipal limit.

It is also seen that from Punjab service area, Panchkula town has been removed and made part of Haryana LSA. Though Panchkula is a part of Haryana State, it is a part of Punjab service area. This has also been settled through judicial process. Further, this would have impact on customer roaming & tariff being territorial issues among operators.

Three levels of licences shall also pose challenges for implementing M&A guidelines. These issues are dealt in para 13.1.

Further, it is noted that Digital Addressable System (DAS) is being implemented by I&B ministry in phased manner from July 2012. DAS may play an important role in broadband penetration by using both way Set Top Boxes. In what way, TRAI's regulations/directions on use of Set Top Boxes under DAS cable TV system may complement the Unified Licence. If required, suitable provisions may be reflected in UL guidelines also.

As far as, inclusion of IP-I in UL is concerned, it is to mention that while announcing decision on UL framework on 15-2-2012 (May 2010 recommendation of TRAI), government had deferred inclusion of IP-I in licence framework. It was noted that the FDI limit of 100% currently available to IP-I will come down to 74% impacting adversely the investment in infrastructure. IP-I currently do not provide active infrastructure. TRAI is requested to give their reconsidered recommendations in this regard.

In Para 1.5, "TRAI" may be replaced by "Licensor".

TRAI may also specify the category of licence for MNPO.

### **TRAI Response**

**Presently, CMTS/UAS licences are issued on LSA basis, and spectrum being linked with the licences, is also assigned on LSA basis. Licence fee, Spectrum usage charges, Performance Bank Guarantee (PBG) and Financial Bank Guarantee (FBG) are levied at LSA basis. Similarly AGR calculation and different accounting procedures as well as M&A guidelines, Interconnection regulations etc are also on LSA basis.**

**In the framework of Unified Guidelines, three levels of Unified licences have been proposed, i.e. National level, Service area level**

and District level. Keeping in consideration, the prevailing practice and also the fact that National level licences shall co-exist with Service area level licences, the Authority is of the view that for all practical purposes, the administration of National Level Unified Licences, for access services, shall continue at LSA level, at par with the Service area level Unified Licences and existing CMTS/UAS licences which shall be converted to UL (Restricted).

#### **District Level Unified Licence**

In its recommendations of November 2011, TRAI had recommended a District level Unified Licence under the Unified Licensing regime. The Authority do not agree with the views of the DoT that the district level licence may be considered after the policy on MVNO is finalised and after a view is taken about the framework of network level licence and service level licence based on the NTP which may be finalised soon by the Government. The Authority is of the view that while finalising the Unified Licensing regime, the DoT should take an integrated view. As mentioned in Paras 2.5 to 2.7 of the recommendations, the desirability of introduction of the district level licence has to be seen in the overall context of the development of telecommunications in India and what the country aspires to achieve. The rural-urban telecom divide is a worrisome reality that needs to be tackled. While we can credit ourselves for the impressive performance in achieving about 950 million voice connections riding on a high growth rate of cellular mobile services, the distribution of these is definitely not something to take pride in.

Moreover, given the lack of telecom facilities and the importance of their development, providing telecommunications to the rural

areas and bridging the urban-rural divide has been the objective of the Government for long.

Besides the gap in basic telecom facilities, a huge digital divide exists between rural and urban areas. This limits the capability of population in the deprived regions in using the information and communications technologies like the Broadband for a wide variety of activities.

Therefore, after detailed analysis, the Authority has concluded in Para 2.16 of the recommendations, that the ensuing opportunities more than justify introduction of such a licencing regime. Such licences will spur local initiatives in creation of broadband infrastructure and introduction of innovative services. Besides, currently, telecommunications is overly dependent on wireless services. While this segment will no doubt be crucial for all time to come, the evolution of applications will be such as to necessitate wireline communications, essentially on Fibre, so as to provide faster data transfer speeds as well as to promote greater efficiency of spectrum utilisation through Fixed-Mobile convergence. There is a possibility of smaller players like cable operators and infrastructure providers coming in. This would lead to larger infrastructure creation and introduction of newer technologies in the network. It should also lead to better utilisation of fiber backhaul and aggregation network planned to be set up by the National Broadband Plan. All these would translate into higher broadband penetration, greater contribution of telecom to Indian economy, fair and equitable access to the triple-play network within communities at district level and more affordable services to the customers. It is expected that with the inception of a district level licence, we would see country wide availability of a wide range of services within the next 2-3 years.

**It is in this context that the Authority recommended introduction of a district level licence and strongly reiterates the same.**

**Regarding the need for modifying the definition of different service areas, the Authority has given the justification in Para 2.18 of the recommendation. However, if the DoT is of the opinion that redefining the service areas will have legal implications apart from having impact on roaming and tariff, then it should explore the possibility of redefining the service areas wherever possible.**

**Regarding the inclusion of IP-I in the unified Licencing regime, the Authority has given the detailed justification in Para 2.64 of the recommendations and strongly reiterates its recommendation that IP-I shall be covered under Unified Licence. However, the Authority is open to the Government reducing from the AGR of the Access Service Provider an amount equal to the Licence fee paid by the IP-I licensee on account of the revenue generated from the said access service provider who has rented the infrastructure from the IP-I licensee.**

**The Authority holds the view that in the new Unified Licensing regime, spectrum has been delinked from the licence. Therefore, the licensing function should be entrusted to TRAI, and DoT should essentially be a policy making body in line with the practice followed internationally in a large number of countries. So far as spectrum is concerned, though internationally it is also handled by the regulator, it may continue to be handled by the DoT. Accordingly, the Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

## **2. Eligibility Conditions**

- 2.1 *The applicant must be an Indian company, registered under the Indian Companies Act 1956.*
- 2.2 *The Applicant Company shall have to be in compliance with the Provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and such modifications to the policy as may be issued from time to time. The relevant provisions are placed at Annexure-II.*

### **Views of the DoT**

The words “Provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and” may be replaced by “relevant provisions of FDI policy of the Government and”.

### **TRAI Response**

**There are different provisions for different types of existing licences in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion. Therefore, the Authority has recommended that the Applicant Company shall have to be in compliance with the Provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and such modifications to the policy as may be issued from time to time. The Authority has no objection to DoT’s suggestion of using the phrase “relevant provisions of FDI policy of the Government”. However, in case of IP-I, it should be mandated that the limit of FDI should be brought down to 74% within a period of three years of Unified Licensing regime coming into force.**

2.3 *FDI shall be subject to laws of India and not the laws of the foreign country/countries.*

**Views of the DoT**

The words after India, i.e., “And .....countries” may be deleted.

**TRAI Response**

**The above phrase is exactly as per the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion for existing Unified Access Service licence. Therefore, no change is required.**

2.4 The Applicant Company shall have a minimum networth as well as paid up equity capital of Rs. 25 crore for National level Unified Licence, Rs 2.5 crore for each Service area level Unified Licence and Rs. 25 lakh for each District level Unified Licence on the date of application and shall submit a certificate to this effect (provided by the Company Secretary/ Statutory Auditors of the applicant company) along with the application. The networth of promoters shall not be counted for determining the networth of the company In case of acquiring Unified Licence in any other licence area, the Licensee shall maintain additional net-worth and paid up equity as prescribed for that service area/district also. The net worth requirement for Unified Licence is summarised below –

Table – Minimum Net-worth requirement for various Unified Licences

| Type of Licence                     | Net-worth and Paid up equity requirement | Total Minimum Net-worth and Paid up equity required for more than one Licence areas   |
|-------------------------------------|--|---|
| National level Unified Licence      | Rs 25 Crore                              |   |
| Services area level Unified Licence | Rs 2.5 crore for each service area.      | (Rs. in crore) 2.5 x Number of service areas for which either LOI/ Licence have been issued and applied for in the name of applicant. |
| District level Unified Licence      | Rs. 25 lakh for each district.           | (Rs. in lakh) 25 x Number of districts for which either LOI/ Licence have been issued and applied for in the name of applicant.       |

### Views of the DoT

The current networth requirement for UASL licence is Rs 100/50/30 Crs for category A/B/C service areas. Therefore for a unified licence with all services, the proposed networth requirement is substantially lower. It is however noted that spectrum has been delinked.

It is further noted that networth requirement for existing ISP licences is NIL and Rs 2.5Cr for NLD/ILD licences. This will create issues in migration of existing licensees to UL. The entry barrier for new applicants will also become high in terms of networth and entry fee.

Conversely, a lower networth requirement, as recommended, for companies who want to operate Access and other services under the scope of UL, may not be desirable as licensee should have a good financial strength to sustain the requirements of operating such business.

The objective of growth in the sector requires that the entry barriers in respect of the services requiring comparatively lesser investment than that for access services should remain low.

It may be considered whether, this can be resolved by having a framework of UL under which there can be different eligibility for different bouquet of services with entry fee and networth requirement commensurate with the respective bouquet of services.

In order to implement such regime, whether National/Service Area/District level licence are necessary or this could be achieved under a single national licence where services and geographical area are allowed to be added in defined steps on “pay as you eat” basis.

However, unit for regulation of competition needs to be indicated.

TRAI may clarify the above issues.

After the words statutory auditors, “countersigned by duly authorised director” may be added.

Provisions of para 2.4 of Class License may also be included here.

## **TRAI Response**

**In the Unified Licensing regime, the spectrum is delinked from the licence, whereas in the CMTS/UAS licence, spectrum was bundled with the licence. Therefore, the networth requirement in case of Unified licensing regime is substantially lower as compared to CMTS/UAS licence.**

**A National level Unified licensee can offer multifarious telecom services whereas the scope of NLD, ILD or ISP licensee is limited. Therefore, the networth requirement in case of Unified Licensing regime is higher as compared to individual NLD, ILD or ISP licences.**

**DoT has suggested that there can be single national licence where services and geographical area are allowed to be added in defined steps on “pay as you eat” basis. It is mentioned that this suggestion was also given by some of the stakeholders during the consultation process. But after careful consideration, the Authority did not agree with the suggestion of the stakeholders as it was of the opinion that the concept of ‘pay as you eat’ will be against the spirit of Unified Licensing regime and the very purpose of having a single licence instead of the present practice of having different licences for different services will be defeated.**

**The Authority is of the view that the administration of even National level Unified Licence would be service area wise for all aspects including LF, SUC, FBG, roll out etc. Therefore, the unit for regulation of competition should also be service area.**

**The suggestion of DoT that ‘after the words statutory auditors, “countersigned by duly authorised director” may be added’, is agreed.**

### **3. Application Procedure**

- 3.1 *The Applicant Company shall pay a non refundable processing fee of Rs. 100,000 (Rs. One Lakh) for National level Unified Licence, Rs. 50,000 (Rs. Fifty Thousand) for Service area level Unified Licence and Rs 15,000 (Rs. Fifteen Thousand) for District level Unified Licence.*
- 3.2 *The Applicant Company shall submit the application in the prescribed Application form for each licence area separately.*
- 3.3 *Incomplete application is liable to be rejected and the processing fee will not be refunded.*
- 3.4 *The complete application shall ordinarily be decided, within 60 days of the submission of the application and the applicant company shall be informed accordingly.*
- 3.5 *TRAI reserves the right to accept or reject any application without assigning any reasons.*
- 3.6 *In case the applicant is found to be eligible for grant of Unified Licence, a Letter of Intent (LOI) will be issued. The applicant shall be required to deposit Entry Fee and submit Bank Guarantee / other documents and sign the licence agreement within a period as mentioned in the letter(LOI) from the date of issue of the letter (LOI) failing which the offer of grant of licence shall stand withdrawn at the expiry of permitted period.*
- 3.7 *The Applicant Company will be required to pay one time non-refundable Entry Fee before signing the license agreement, based on Letter of Intent (LoI).*

## **Views of the DoT**

As national level licence is being introduced, separate application forms for different types of unified licences will be required to be prescribed.

Since there is no Cap on the number of licences which can be issued and for certain services, backhaul spectrum may be required, there will be a need to define a method of receiving and processing applications so that the principle of Natural Justice is followed.

It has been recommended that incomplete applications are liable to be rejected. In normal course some minor discrepancies may be there in the applications filed. There may be a need to give some time to applicant to correct the mistakes etc.

In para 3.5 the word TRAI may be replaced by Licensor.

Detailed application procedure may be worked out in consultation with TRAI.

## **TRAI Response**

**Under the unified licensing regime, spectrum is delinked from licence. Unless a holder of unified licence obtains access spectrum, the need for backhaul spectrum will be only occasional. The Department of telecommunications may evolve a suitable procedure for these occasional applications.**

- 3.3 On the issue of rejecting incomplete applications, the Authority is of the opinion that as the spectrum is now delinked from the licence and there is no restriction on the licences in a service area, there should ordinarily be no issues if the applicant is given time to correct minor mistakes. DoT may decide the maximum time which will be given for correcting the application and should**

**also ensure that the date of receipt of application after correction is taken as the effective date of the application.**

**3.5 The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licenses.**

**This Authority agrees with the suggestion that the detailed procedure for applications will be worked out in consultation with TRAI.**

#### **4. Entry Fee**

4.1 One time **non refundable** Entry Fee for Unified Licence shall be:

- a. Rs. 15 (Fifteen) crore for National level Unified Licence;
- b. Rs. 1 (One) crore for each Service area level Unified Licence except for Jammu & Kashmir and North East Service areas where Entry fee will be Rs. 50 (Fifty) lakh each.
- c. Rs. 10 (Ten) lakh for each District level Unified Licence.

4.2 While granting a National level or Service area level Unified Licence, Entry fee already paid for the service area level licences or district level licences will be adjusted on pro rata basis for the balance validity period of such Licences at hand against the Entry Fee for the National level or Service area level Unified Licence. However, where the sum of Entry Fee already paid exceeds the Entry Fee to be paid, there will be no refund of the Entry Fee.

#### **Views of the DoT**

The amount recommended for entry fee for different types of unified licences herein are different than the earlier recommendation of TRAI which prescribed the fee as Rs 20 Crs for all India licence, Rs 2 Crs for Metros and category A Service Areas & Rs 1 Cr for category B and Rs 0.5 Cr for category C areas. This recommendation was accepted in-principle by the Government subject to final decision on TRAI recommendation on UL.

It has been noted from the stakeholders comments quoted in para 2.23 of the recommendations that some of them wanted entry fee to be paid on “pay as you eat” basis. In this regard the comments given above regarding bouquet of service under different categories of UL may also be seen.

Dispensations provided in para 4.2 shall be applicable to those licencees who are already holding service area UL.

TRAI is requested to reconsider in view of the above.

### **TRAI Response**

**During the consultation process, some stakeholders commented that the Entry Fee of Rs. 20 cr for National level Unified Licence, Rs. 2 cr/1 cr/0.5 cr for Service area level Unified licence for Cat 'A'/'B'/'C' service areas is very high. After examining the comments of the stakeholders, the Authority decided to revise the Entry Fee so as to facilitate entry of small players. The Authority has also decided to do away with the present distinction among service areas, as it is of the opinion that this categorisation was done at a time when the telecom sector was just opened up for private participation and telecom penetration in a large number of States grouped under B and C categories was very low. However, presently some of these Circles have a higher rate of growth and revenue potential. Therefore, the Authority is of the view that this distinction between various Circles is no longer relevant.**

**Regarding the concept of 'pay as you eat' suggested by the DoT, comments given above against Para 2.4 may be seen.**

**Clause 4.2 refers to those licensees who have taken District level Unified Licence / Service area level Unified Licence and wish to migrate to Service area level /National level Unified Licence. The Authority does not agree with the suggestion of DoT that dispensations provided in Para 4.2 shall be applicable to those licensees who are already holding only Service area level Unified Licence.**

## **5. Scope of the Licence**

5.1 *Subject to Clauses f and g of Clause 5.1 and Clause 5.2, Unified Licence will be service and technology neutral and the Unified Licensee shall be permitted to provide any telecom service, as defined below on a non-exclusive basis, anytime, anywhere, using any technology within its licence area as prescribed below:*

- a. *Collection, carriage, transmission and delivery of voice and/or non-voice messages over Licensee's network in the designated licence area and includes provision of all types of access services. Unified licensee can also provide Internet Telephony, Internet Services including IPTV and Broadband Services including triple play i.e. voice, video and data. The Licensee shall be free to enter an agreement with other service provider in India or abroad for providing roaming facility to its subscriber under full mobility service unless advised / directed by TRAI otherwise.*
- b. *Unified Licensee can provide dark fibres, Right of Way, duct space, towers on lease / rent / sale basis to the licensees of telecom services on mutually agreed terms and conditions. The Licensee will also be allowed to install and share active network limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission systems and to seek SACFA siting clearance for erecting towers with or without agreement with licensed Service Providers.*
- c. *Unified Licensee can provide Voice mail, Audiotex, Videotex, UMS, Radio paging and PMRTS.*
- d. *Unified Licensee is permitted to provide leased circuit within its licence area. Public network is not to be connected with leased circuits/CUGs.*

- e. *A Unified Licensee shall be permitted to offer any/all services covered under 'Class licence' and 'Licensing through Authorisation' but not vice-versa.*
- f. *The Licensee cannot provide any other service which otherwise require a separate licence.*
- g. *The Licensee cannot provide broadcasting services, for which a separate licence / registration is required as per Cable TV Act 1995 and guidelines for DTH Licence issued by Ministry of Information and Broadcasting.*

5.2 *The services which a Unified Licensee can offer will be as below:*

- a. *National level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 in any/all service are as; GMPCS, NLD and ILD services and Resale of IPLC.*
- b. *Service area level Unified Licences shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 except National Long Distance (NLD), International Long Distance (ILD), Global Mobile Personal Communication by Satellite (GMPCS) services, Resale of IPLC and services covered under Class Licence.*
- c. *District level Unified Licence shall permit the Licensee to offer any or all of the telecom services mentioned in Clause 5.1 in the district for which licence is given. However, a District level Unified licensee shall not be permitted to offer NLD, ILD, GMPCS, VSAT & Resale of IPLC, INSAT-MSS and wireless access service. Also, these Licensees would not be entitled for assignment of spectrum resources for access services. District level Unified Licence will not be given for Metro areas of Delhi, Mumbai and Kolkata.*

*(Note – The definitions of various services mentioned above are as given in Annexure I)*

## **Views of the DoT**

The word “service neutrality” needs to be removed as the services to be provided and prohibited have been mentioned under the scope of licence.

5.1(b) Sharing of active network should be subject to guidelines and specific licence conditions. TRAI may recommend conditions of active network sharing.

5.1(d) May be modified as below:

“Unified Licensee is permitted to provide leased circuit within its licence area. Interconnection with PSTN/PLMN/Internet Telephony Network is not permitted with leased circuits/CUGs.”

5.1(e) A licensee will be permitted to hold only one licence for overlapping services and service areas. The same will apply to existing licensees on migration. Substantial equity (holding of 10% or more) restriction may apply between the categories as mentioned in para 13.1. As mentioned above, the licensee can provide many services which require separate licences. However it may be required to be indicated in the scope that the terms and conditions of such licences will become applicable to the licensee as detailed in Unified License.

5.1(g) Following may be added after the words DTH: “Or any other broadcasting service”.

5.2(c) Comments regarding district level licence may also be seen as in para 1 above.

TRAI recommendation against para 2.15(chapter-II) “...the district level service provider may also act as an MVNO.....” is contradictory to

what is stated against 5.2(C) of Appendix not permitting wireless access service provisioning. TRAI is requested to clarify.

### **TRAI Response**

**5.1 TRAI agrees with the proposal that the words ‘service neutrality’ may be deleted from Clause 5.1.**

**5.1 (b) Clause 5.1(b) may be read as**

**“Unified Licensee can provide dark fibres, Right of Way, duct space, towers on lease / rent / sale basis to the licensees of telecom services on mutually agreed terms and conditions. The Licensee will also be allowed to install and share active network limited to antenna, feeder cable, Node B, Radio Access Network (RAN) and transmission systems and to seek SACFA siting clearance for erecting towers”.**

**Regarding the guidelines on sharing of active networks, Clause 22 of these guidelines may be seen.**

**5.1 (d) Agreed. The amended clause will be**

**“Unified Licensee is permitted to provide leased circuit within its licence area. Interconnection with PSTN/PLMN/Internet Telephony Network is not permitted with leased circuits/CUGs.”**

**5.1 (e) As Unified Licensee is delinked from spectrum, cross holding provisions are not applicable. The cross holding restrictions will apply only in case of Licensee holding the spectrum. As the spectrum shall be offered service area wise, for both National level and Service area level, the cross holding restrictions provisions shall continue to be applicable on service area basis, as spelt out in Part B i.e. ‘Additional Guidelines for Spectrum assignment associated with Unified Licence’.**

**5.1 (g) Agreed. The amended clause will be**

**“The Licensee cannot provide broadcasting services, for which a separate licence / registration is required as per Cable TV Act 1995 and guidelines for DTH Licence issued by Ministry of Information and Broadcasting or any other broadcasting service.”**

**5.2 (c) In its recommendations on ‘Telecommunications Infrastructure Policy’, dated 12<sup>th</sup> April 2011, the Authority had, in Para 3.61, recommended that “The licensed service area (circle) of MVNO should be same as that of parent MNO. However, the MVNO could offer service anywhere within the licensed service area (circle) of the parent MNO as specified in the mutual agreement between MNO and MVNO.” Therefore, District level Unified Licensee will have to obtain a Service area level Unified Licence, if it wants to act as an MVNO.**

## **6. Ownership of Licensee Company**

6.1 *The Licensee shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Unified Licence.*

6.2 *The Licensee shall declare the Indian & Foreign equity holdings (both direct and in-direct) in the Licensee Company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July of every year to TRAI. This is to be certified by the Company Secretary or Statutory Auditor of the Licensee Company.*

### **Views of the DoT:**

6.2 After the words statutory auditors, “countersigned by duly authorised director” may be added.

### **TRAI Response**

**Agreed. The amended clause will be**

**“The Licensee shall declare the Indian & Foreign equity holdings (both direct and indirect) in the Licensee Company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July of every year to Licensor. This is to be certified by the Company Secretary or Statutory Auditor countersigned by duly authorised director of the Licensee Company”**

## **8. Renewal of Licence**

8.1 *Renewal – TRAI may renew, if deemed expedient, the period of Unified Licence by a period of 10 years at one time upon the request of the Licensee on terms mutually agreed. The decision of TRAI shall be final in this regard.*

8.2 *On renewal, Unified Licensee will be required to pay a Renewal Fee which will be as notified by TRAI.*

### **Views of the DoT:**

The word “TRAI” wherever used in 8.1 and 8.2 may be replaced by “Licensor”

### **TRAI Response**

**Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

## **9. Suspension/revocation/termination/Surrender of Licence**

9.1 *TRAI reserves the right to suspend the operation of this Licence in whole or in part, at any time, if, in its opinion, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.*

*Provided that TRAI, if the situation so warrants, dispense with the issue of notice prior to such suspension. The decision of the TRAI in this regard shall be final and binding.*

9.2 *TRAI may, without prejudice to any other remedy available for the breach of any conditions of licence, by a written notice of 60 Calendar days from the date of issue of such notice to the licensee at its registered office, terminate this licence under any of the following circumstances:*

*(i) If the LICENSEE:*

*a) fails to perform any obligation(s) under the licence including timely payments of fee and other charges due to the Government;*

*b) fails to rectify, within the time prescribed, any defect/deficiency/correction in service/equipment as may be pointed out by the TRAI/DoT;*

*c) fails to comply with FDI norms;*

*d) goes into liquidation or is ordered to be wound up;*

*(ii) for non-compliance of any or all terms and conditions of the licence.*

*Provided that the order terminating the Licence shall take effect only on expiry of 60 calendar days from the date of issue of such order.*

*9.3 Licensee may surrender the Licence, by giving notice of at least 60 Calendar days in advance. Unless the surrender notice is rejected by TRAI within 30 days of the date of receipt of the notice, the effective date of surrender of Licence will be 61<sup>st</sup> Calendar day counted from the date of receipt of such notice by TRAI.*

### **Views of the DoT**

The word “TRAI” wherever used in 9.1, 9.2 and 9.3 may be replaced by “Licensor”.

Para 9.2 (ii) and proviso below that are not part of the existing licensing framework. It is felt that this may not be added now.

9.3 This clause is different than the existing provision of clause 10.3 of the UAS Licence. We may modify it accordingly.

### **TRAI Response**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

### **9.2 (ii) Agreed.**

**9.3 The Authority is of the opinion that in some of the situations, e.g. outstanding dues etc, the licensee will not be permitted to surrender the licence till clearance of its liabilities. Therefore, in such situations, the surrender notice will need to be rejected.**

**Accordingly, the Authority reiterates its recommendation.**

## 10. Penalty

10.1 TRAI may impose financial penalty (as detailed below) based, for each violation of the terms and conditions of licence agreement:

| <b>No. of times</b>                       | <b>Minor violation</b> | <b>Major violation</b> |
|---|------------------------|------------------------|
| 1st                                       | 1 lakh                 | 10 lakh                |
| 2nd                                       | 5 lakh                 | 50 lakh                |
| 3rd                                       | 25 lakh                | 2.5 crore              |
| 4th                                       | 25lakh                 | 5 crore                |
| 5 <sup>th</sup> and subsequent violations | 25 lakh                | 10 crore               |

10.2 Before deciding the imposition any penalty, proper opportunity will be given to Licensee to present its case.

10.3 For categorising a violation as minor or major, the guiding principles shall be

- Whether the violation is committed deliberately or inadvertently;
- Whether the violation is committed repeated violations;
- Whether the licensee is prompt in taking corrective action;
- The amount of loss to the exchequer;
- What kind of benefits were derived by licensee due to the violation;
- Whether the violation was restricted in a service area or was across a number of service areas;
- Whether the violation / breach carried out in its network by a third party beyond the control of the operator;
- Whether the violation has an impact on the end-user(s) and /or other licensee(s) business.

10.4 *Notwithstanding the above, the following violations be always be categorised as major violations;*

- i Violation resulting in threat to the security of nation,*
- ii Violation resulting in heavy revenue losses to the Government.*
- iii Wilful and illegal conduct of the Licensee outside the framework of terms and Conditions of the Licence.*

### **Views of the DoT**

It is noted that the penalty has been reduced from Rs 50 Crs to a maximum of 10 Crs and categorisation of major and minor violation as guiding principle has been provided.

Under the UAS licence penalty for subscriber verification violations is imposed on monthly basis. In such cases applicability of first to fifth violation may not apply.

In para 10.4(ii) has an element of subjectivity with respect to heavy revenue loss.

Similarly under para 10.4(iii) it has been recommended to impose penalty outside the framework of the T&C of the licence. This appears to be non-implementable and legally untenable.

Further the limit of penalty in the existing licences has been defined separately in different licences and are much lower in amount than the amount proposed.

As a result the limit of penalty has come down drastically for large network operators, while at the same time for licensees opting for services like ISP/NLD/ILD etc, it has gone up.

It is also noted that penalty of 1st major violation is much less than 5th minor violation. Also 1st serious violation with could have large implications has not been addressed in the proposed scheme.

DoT is also looking into criterion for imposition of penalty separately. Penalty imposition principles given by TRAI may be kept in view while finalising the criterion by DoT.

Penalty should be SA wise. EMF & CAF penalties and any other similar penalties, if any, shall continue to be decided separately by DoT from time to time.

TRAI is requested to reconsider in view of the above.

### **TRAI Response**

**10.4(ii) The Authority is conscious of the fact that there is an element of subjectivity in the expression ‘heavy revenue loss’. However, it is not practical to quantify the revenue loss before hand and therefore, some amount of subjectivity, though very small, will always be there.**

**10.4(iii) The suggestion of DoT is accepted.**

**The amount of penalty given under Clause 10.1 is slightly modified as under. Therefore, Clause 10.1 shall be read as**

**“TRAI may impose financial penalty (as detailed below), for each violation of the terms and conditions of licence agreement:**

| <b>No. of times</b>                             | <b>Minor violation</b> | <b>Major violation</b> |
|---|------------------------|------------------------|
| <b>1st</b>                                      | <b>1 lakh</b>          | <b>50 lakh</b>         |
| <b>2nd</b>                                      | <b>5 lakh</b>          | <b>2.5 crore</b>       |
| <b>3rd</b>                                      | <b>25 lakh</b>         | <b>5 crore</b>         |
| <b>4<sup>th</sup> and subsequent violations</b> | <b>25lakh</b>          | <b>10 crore</b>        |

## **Financial Conditions**

### **11. Fees payable**

**11.1 Entry Fee** – One time non refundable Entry Fee as detailed in Clause 4 of these guidelines.

**11.2 Licence Fee** – An annual Licence Fee as a percentage of Adjusted Gross Revenue (AGR) shall be applicable. From the second year of the effective date of the Unified Licence, this Licence Fee shall be subject to minimum of 10% of the Entry Fee paid.

**11.3 The Fee/royalty payable towards Wireless Planning and Coordination Wing (WPC):** In the event of a Unified Licensee being given spectrum, WPC Charges shall be payable at such time and in such manner as the WPC Wing of the DoT may prescribe from time to time.

### **Views of the DoT**

11.1 The comments already noted above may be seen

11.2 It is not clear whether for the national level licence AGR is composite AGR for all service areas.

It is noted that due to allocation of resources like spectrum, numbering etc on service area basis and also due to the fact that National and service areas licence will coexist, the AGR should be on service area basis as per the requirement of UASL.

It is also necessary to mention Licence fee as a percentage of AGR with component of USOF contribution. It is presumed that Uniform Licence fee would be applicable, including USOF levy as may be prescribed by Licensor from time to time.

11.3 The title may be read as under:

“The Fee/royalty/Spectrum Usage Charge payable towards Wireless Planning and Coordination Wing (WPC):”

## **TRAI Response**

**11.2 As discussed under Clause 1, for the provision of access services, the administration of National level Unified Licence would be service area wise for all aspects including Licence Fee, Spectrum Usage Charge, PBG, FBG, Roll out obligations, Numbering plan, M&A, PoI etc. Therefore, the AGR of such licensee will be composite AGR of all service areas. This will also include the AGR of services which are presently at national level, e.g. NLD/ILD/VSAT etc.**

**11.3 Agreed.**

## **12 Bank Guarantee**

12.1 *Each holder of a Unified Licence shall be required to submit a Financial bank Guarantee (FBG). The FBG shall be equivalent to the Licence Fee payable for two quarters. The minimum annual Licence Fee is 10% of the entry fee. Therefore, for new entrants, initially FBG shall be for an amount of Rs. 75 (Seventy Five) lakh for National level Unified Licence, Rs. 5 (Five) lakh for each Service area level Unified Licence except J&K and North East Service area where the initial FBG will be 2.5 lakh each and Rs. 50,000 (Fifty thousand) for each District level Unified Licence. The amount of FBG shall be reviewed on six monthly basis by TRAI and 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 and any additional amount as deemed fit by the TRAI/DoT.*

### **Views of the DoT**

12.1 In the present licensing regime, PBG is not linked to roll-out alone. Therefore PBGs are required to be prescribed. Further the FBG shall be equivalent to the LF payable for two quarters and any other dues.

The amounts PBG may be recommended by TRAI. However, presently amount of FBG is 50/ 25/ 5 crores for A/B/C service areas, which comes to 630 crores for all 22 SAs. Similarly PBG is 20/ 10/ 2 crores (clause 21 of UASL)

### **TRAI Response**

**12.1 In the present UAS licence, the PBG has been prescribed on account of roll out obligations. As per Clause 21.1 of UAS licence, the PBG gets released after the licensee fulfils the roll out obligations. In the Unified licence, spectrum has been delinked from the licence and therefore, no roll out obligations**

**are prescribed. Accordingly, there is no relevance for any PBG in the Unified Licence. As per Clause 12.1 of UL, the initial amount of FBG shall be equivalent to the Licence Fee payable for two quarters. The initial amount of FBG is less in Unified Licence as compared to UAS licence as the Entry Fee in the two cases is different.**

### **13. Merger of Unified Licences**

13.1 *Merger of Unified Licences may be permitted as per guidelines issued by DoT from time to time.*

#### **Views of the DoT**

13.1 Merger guidelines as applicable today are relevant for service area level licences. In the proposed UL regime there will be three categories of licences, i.e., National, Service area and District level licences. It may be difficult to ensure level playing field if the competition is to be maintained separately under National and Service area licence. Such a situation may also not be desirable. Therefore it is for reconsideration that competition may be maintained at Service area level and amended guidelines may be suitably modified to cover National licence holders .

For holding of licences and for the purpose of M&A, it is proposed that Substantial equity (holding of 10% or more) restriction may apply between the categories as mentioned below:

UL-UL

UL-CL

UL-Licence through Authorisation

CL-Licence through Authorisation

TRAI recommendations are sought for M&A under UL regime vis-à-vis those existing licencees who may not migrate to UL

Same may be reflected in eligibility conditions of respective licence guidelines also (e.g. UL/CL/DL)

## **TRAI Response**

**13.1 The broad M&A guidelines in respect of Unified licences will, inter-alia, include:**

- i. Prior approval of TRAI shall be mandatory for the merger of the licences.**
- ii. Merger of licenses shall be restricted to the same Service Area level Unified licensee and between the National level Unified licensees. Merger will be permitted between Service area licenses or between National level licences. No merger will be permitted between district level licences.**
- iii. For determination of market power, market share of both subscriber base and Adjusted Gross Revenue of licensee in the relevant market shall be considered. The entire access market will be the relevant market for determining the market share.**
- iv. Where the market share of the resultant entity in the relevant market is not above 35% of the total subscriber base or the AGR in a licensed service area, TRAI may grant permission at its level through a simple, quick procedure. However, where, in either of these criteria, it exceeds 35% but below 60%, TRAI may decide the cases after careful examination. Cases where market share is above 60% shall not be considered.**
- v. The duration of licence of the resultant entity will be equal to the higher of the two periods on the date of merger.**
- vi. On merger of the two licences, the AGR of the two entities will also be merged and the licence fee will be levied at the specified rate for that Service Area on the resultant total AGR.**

**As discussed under Clause 1, for the provision of access services, the administration of National level Unified Licence would be service area-wise for all aspects including Licence Fee, Spectrum Usage Charge, PBG, FBG, Roll out obligations, Numbering plan, M&A, PoI etc. Therefore, if the Unified licensee holds the access spectrum, then the prevailing merger guidelines shall be applicable on service area basis.**

### **General Conditions**

15. *The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.*

### **Views of the DoT**

15. We may add the words “IT Act or any other relevant act” at the end of the paragraph.

### **TRAI Response**

**Agreed. The modified Clause is given as under.**

**“The Licence shall be governed by the provisions of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933, Telecom Regulatory Authority of India Act, 1997 and Information Technology Act, 2000 as modified or replaced from time to time”.**

16. *The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.*

**Views of the DoT**

We may add the word “instructions” after “direction” and replace “TRAI” with “Licensor/TRAI”.

**TRAI Response**

**The modified clause shall be as under**

**“The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time and instructions as are issued by DoT/TRAI.”**

17. *The Licensee shall be responsible for, and is authorized to own, install, test and commission all the applicable systems for providing the services.*

**Views of the DoT**

17. Following may be added at the end of para “complying to the security requirements as prescribed from time to time under the respective licence agreement.”

**TRAI Response**

**This has been already covered under Clause 27 (Security Conditions).**

19. Licensee shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation, networking, operation and commissioning of necessary equipment and systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of its component of revenue, attending to claims and damages arising out of his operations.

#### **Views of the DoT**

19. For franchisee /agents existing provisions may be incorporated.

#### **TRAI Response**

**Agreed. Clause 19 shall be modified as under.**

**“19(a) Licensee shall make its own arrangements for all infrastructure involved in providing the service and shall be solely responsible for installation, networking, operation and commissioning of necessary equipment and systems, treatment of subscriber complaints, issue of bills to its subscribers, collection of its component of revenue, attending to claims and damages arising out of its operations.**

**19(b) Licensee can appoint any franchisee for provision of last mile linkages including suitable rural exchanges to provide service. However, all responsibilities for ensuring compliance of terms & conditions of the licence shall vest with the licensee. The terms of franchise agreement between licensee and his franchisee shall be settled mutually by negotiation between the two parties involved.”**

20. *The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization/ bodies/Industry. Unified Licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA/IS.*

### **Views of the DoT**

20. We may add the word “etc” at the end of the para and delete “...bodies/industry” from the second line.

### **TRAI Response**

**Clause 20 shall be read as under.**

***“The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization. Unified Licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA /IS .”***

**Since the words “such as” occur before the words “ 3GPP/3GPP-2 ...”, there is no need for the word “etc”.**

22. *Sharing of active/passive infrastructure shall be as per the guidelines issued by TRAI from time to time.*

**Views of the DoT**

22. We may replace the word “TRAI” with “Licensor”.

**TRAI Response**

**The Authority reiterates its recommendations that TRAI should be entrusted with the function of granting all Unified Licences.**

23. *The Licensee shall adhere to the National Numbering plan, National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standard as prescribed by TRAI, from time to time.*

#### **Views of the DoT**

23. The paragraph may be modified as below:

“The Licensee shall adhere to the National Fundamental plans like National numbering plan, Signalling plan, Routing plan etc along with National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standard as prescribed by DoT, from time to time.”

#### **TRAI Response**

**Agreed with slight modification.**

**“The Licensee shall adhere to the National Fundamental plans like National numbering plan, Signalling plan, Routing plan etc along with National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standards as prescribed by DoT/ TRAI, from time to time.”**

24. *The Licensee providing access service, shall provide independently or through mutually agreed commercial arrangements with other Service Providers, all public utility services including Toll Free services namely police, fire, ambulance or any other emergency number as may be specified by the DoT/TRAI from time to time. While providing emergency services such as police, fire, ambulance etc. it shall be ensured that such calls shall be delivered to the control room of the concerned authority for the area from where call is originated.*

### **Views of the DoT**

24. The last sentence of the para may be modified as below:

*“ While providing access to emergency services/emergency response services/services during disaster including police/Fire etc as defined from time to time, it shall be ensured that such calls shall be delivered to the designated control room, as prescribed from time to time, of the concerned authority.”*

The licensee shall follow the standard operating procedures as may be prescribed for the disaster management /emergency response services.

### **TRAI Response**

**Agreed. The modified clause shall be as under.**

**“The Licensee providing access service, shall provide independently or through mutually agreed commercial arrangements with other Service Providers, all public utility services including Toll Free services namely police, fire, ambulance or any other emergency number as may be specified by the DoT/TRAI from time to time. While providing access to emergency services/emergency response services/services during disaster including police/Fire etc as defined from time to time, it shall be ensured that such calls shall be delivered to the**

**designated control room, as prescribed from time to time, of the concerned authority.”**

**The licensee shall follow the standard operating procedures as may be prescribed for the disaster management /emergency response services.**

## **25. Interconnection**

- 25.1 *It shall be mandatory for the Unified Licensee to provide interconnection to all eligible Telecom Service Providers (eligibility shall be determined as per the service provider's Licence agreement and TRAI's determination/orders/regulations issued from time to time) to ensure that the calls are completed to all destinations. TRAI may intervene in the matter of interconnection between two service providers.*
- 25.2 *The interconnection with a telecom service provider shall have to be withdrawn, in case of termination of the licence of the Telecom service provider, within one hour or within such time as directed by the TRAI in writing, after receiving intimation from the TRAI in this regard.*
- 25.3 *The terms and conditions of interconnection including, inter alia, standard interfaces, points of interconnection and technical aspects will be subject to compliance of prevailing regulations, directions and determinations issued by TRAI from time to time.*
- 25.4 *The charges for accessing other networks for inter-network calls shall be based on mutual agreements between the service providers conforming to the Orders/Regulations/Guidelines issued by the TRAI from time to time.*

### **Views of the DoT**

Interconnection issue under National Unified Licence scenario, co-existing with UL-restricted (SA) needs to be addressed with respect to the issues such as calculation of AGR, applicability of interconnect regulation on NLD etc.

Further, certain specific provisions of respective licences may also be incorporated in the UL guidelines. Some of such provisions are listed in Annexure.

## **TRAI Response**

**As discussed under Clause 1, for the provision of access services, the administration of National level Unified Licence would be service area-wise for all aspects including Licence Fee, Spectrum Usage Charge, PBG, FBG, Roll out obligations, Numbering plan, M&A, Point of Interconnect (PoI) etc. Therefore, following existing provisions of PoI and call routing shall continue.**

- Inter-Circle traffic from one licensed service area to another shall be routed through National level Unified Licensee.**
- For providing International Long Distance service, the licensee shall establish at least one Gateway Switch along with requisite security monitoring equipment within the prescribed period.**
- The international traffic shall be routed through the network of National level Unified Licensee.**

## **26. Quality of service**

*26.1 The Licensee shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface subject to such other directions as TRAI may give from time to time. Failure on part of Licensee or his franchisee to adhere to the Quality of Service stipulations by TRAI and network to network interface standards of TEC may be treated as breach of Licence terms.*

### **Views of the DoT**

26.1 This clause should be modified to retain the broad provisions of Para 28.1 of UASL as below:

“The Licensee shall ensure the quality of service as prescribed by the Licensor or TRAI. The Licensee shall adhere to such QoS standard and provide timely information as required therein.”

### **TRAI Response**

**Quality of service is a function entrusted to TRAI under the TRAI Act. Besides, Clause 26 has been taken from the Guidelines on Unified Access Service Licence. There is therefore no need for any modification.**

## **27. Security Conditions**

*27.1 The Licensee shall comply with the security conditions inter alia relating to inspection of the installation/establishments, audit of networks, security of the network, restriction on employment of foreign nationals, transfer of information outside the country, remote access, monitoring of networks, confidentiality of information relating to subscriber data and any other condition imposed by DoT/TRAI from time to time.*

### **Views of the DoT**

27.1 The words “Subscriber verification” may be added after the words “subscriber data” in the sixth line of the para.

### **TRAI Response**

**Agreed. Also, in view of the comments of DoT in Clause 25, the modified clause shall be as given under:**

- 27.1 The Licensee shall comply with the security conditions inter alia relating to inspection of the installation/establishments, audit of networks, security of the network, restriction on employment of foreign nationals, transfer of information outside the country, remote access, monitoring of networks, confidentiality of information relating to subscriber data, subscriber verification and any other condition imposed by DoT/TRAI from time to time.”**
- 27.2 Introduction of GMPCS service (satellite Telephone Service) in the country on non-exclusive basis is subject to the clearance of specific proposal from security angle by an Inter-Ministerial Committee consisting of Secretaries from Ministry of Home Affairs, Ministry of Defence, Deptt. of Space, Deptt. of Telecommunication, Cabinet Secretariat(R) and Director, IB**
- 27.3 The location of GMPCS gateway (land based satellite link station) outside India is not permitted in view of (i) Possibility of**

**monitoring of calls outside country by unauthorised agencies and (ii) Non-availability of monitoring of calls in India by security agencies.**

**27.4 For providing International Long Distance services, the Gateway station, alongwith requisite security monitoring equipment, shall be set up only after getting the permission or clearance from the Licensor.**

**B. Additional Guidelines for Spectrum assignment associated with Unified Licence**

28. *The net worth requirement for those Unified Licensees who may apply for assignment of spectrum will be in addition to what is mentioned in Clause 2.3 above. The promoters of the Applicant Company shall have a combined net-worth of Rs. 100 crore/ Rs. 50 crore/ Rs. 30 crore for Category A, B and C Service areas respectively. The Applicant Company shall have a minimum paid up equity capital equal to one-tenth of net-worth prescribed above and shall submit a certificate to this effect (provided by the applicant's Company Secretary) while applying for the spectrum.*

29. *Allocation of access spectrum will be made service area-wise. In the event a Licensee, or a single company/ legal person having substantial equity in the Licensee company, has substantial equity of more than 10%, directly or indirectly, in any other Licensee in the same service area, access spectrum can be bid for, by only one of such Licensee. In the event one of such Licensee has already been allocated access spectrum, only such Licensee will be entitled to bid for the additional spectrum in that service area. In the event both the Licensees have been allocated access spectrum, only one of them will be entitled to bid for the access spectrum.*

*Provided that this shall not be applicable to Licensees which were covered by the Note under Clause 1.4 of the UAS licence conditions.*

30. *The Performance Bank Guarantee (PBG) and additional Financial Bank Guarantee (FBG) shall be as prescribed at the time of assignment of spectrum.*

31. *The Fees, charges and royalties for the use of spectrum and also for possession of Wireless Telegraphy equipment shall be separately*

*securitised by furnishing FBG of an amount equivalent to the estimated sum payable annually in the proforma given in licence agreement, to WPC, valid for a period of one year, renewable from time to time till final clearance of all such dues.*

32. *The Renewal Fee discussed in Clause 8 above does not cover the value of spectrum, which shall be paid for separately.*
33. *Unified Licensees who will be assigned spectrum, will be required to comply with roll out obligations as applicable, with attendant incentives and penalty as linked to allotment of that particular spectrum block as may be specified at the time of allotment of spectrum or as may be specified from time to time.*
34. *The Licensee shall pay spectrum usage charges in addition to the Licence Fees on revenue share basis as notified separately from time to time by the WPC Wing. For the limited purpose of levying spectrum charges, only the revenue from the wireless services shall count towards AGR calculation. It will continue to be determined on service area basis, and shall be levied only in respect of those service areas, where the Licensee holds any access spectrum.*
35. *For use of space segment and setting up of the Earth Station etc., the Licensee shall directly coordinate with and obtain clearance from Network Operations and Control Centre (NOCC) under DoT, apart from obtaining SACFA clearance. The clearance from other authorities as specified from time to time shall also be obtained by the Licensee.*

### **Views of the DoT**

Following issues arises:

- i. Networth of promoters have not been indicated under UL (Condition 2.4);

- ii. Whether existing provisions of counting of Networth of only of those promoters having atleast 10% equity holding is to be maintained or not.
- iii. Whether networth requirements would be in three categories i.e. A/B/C.
- iv. Whether additional Networth is required in case of MW/ backbone/ satellite Spectrum/ PMRTS assignment also;
- v. Networth requirement to be met before participation in Auction;
- vi. The additional Spectrum not defined;
- vii. Categorisation to be based on National level, service Area level and J&K/ NE. Assam is not mentioned with N.E. by TRAI.

30. Following may be added:

PBG &FBG shall be submitted before the assignment of spectrum.

33. There is provision of imposing Liquidated Damages (LD) for not meeting the roll-out prescribed under the present UAS regime. However no incentive/penalties are linked to meeting the roll-out obligations in UAS regime.

34. Presently for calculating SUC, the only deduction from AGR is wireline revenue and not as proposed by TRAI. It may adversely impact the revenue from SUC. To avoid this, existing definition of AGR may continue.

TRAI is requested to reconsider recommendations 28 to 34 in view of the above.

## **TRAI Response**

- i The reasons for counting the networth of only the Applicant Company itself in case of Unified Licence has been explained in Para 2.22 of the recommendations.**
  - ii In case of spectrum assignment to a Unified licensee, networth of those promoters having at least 10% equity holding shall be taken into consideration.**
  - iii The networth requirement would be Rs. 100 crore for all service areas except J&K and NE where it will be Rs. 50 crore.**
  - iv Additional networth of Rs. 100 crore shall be applicable, in case the licensee applies for the assignment of Satellite spectrum to provide access services.**
  - v The networth requirement spelt in Clause 28 is applicable in case of Unified Licensee who applies for assignment of access spectrum and this is to be met before participation in the auction.**
  - vi In Clause 29, it has been mentioned that “.....In the event one of such Licensees has already been allocated access spectrum, only such Licensee will be entitled to bid for the additional spectrum in that service area.....” Here the additional spectrum means the spectrum for which a licensee, already having access spectrum, will be bidding for.**
  - vii Assam and NE are two separate service areas. Unlike North-East, Assam does not require special dispensation.**
- 30. Clause 30 is modified as under.**

***“The Performance Bank Guarantee (PBG) and additional Financial Bank Guarantee (FBG), as prescribed, shall be submitted before the assignment of spectrum.”***

- 33. The Authority has, in May 2010, as amended in November 2011 recommended the roll out obligations, which contains the provisions of incentives and penalties. Moreover, the Clause 33 is generic in nature.**

**Justification for penalty and incentives in case of Rural Roll-out Obligation**

**The importance of telecommunications in the development of rural areas needs no reiteration. Providing telecommunications to the rural areas and bridging the urban-rural divide has been the objective of the Government for long. The Authority would ideally like to see all the villages/habitations with a population of 500 and above to be covered in a time bound manner.**

**In its earlier recommendations the Authority opined that the present roll out obligations are very lenient besides being urban centric. The result is that even about 18 years after the introduction of mobile service in the country, the present rural teledensity is below 40% while the urban teledensity has reached about 170%. Spectrum being a scarce resource, service providers are expected to use it optimally and provide coverage and service in the entire service area including the rural areas. Accordingly, in its recommendations of May, 2010 and November 2011, the Authority recommended that roll out obligation of coverage, in a phased manner, of habitations having a population of more than 2000 be imposed on the licensees. The Authority had also recommended that in case of existing licensees, who have already completed more than four years may be given one more year to complete the roll out in required number of habitations.**

**The Authority is of the opinion, that in order to have inclusive growth and to reduce the urban-rural divide, it is necessary that the service providers, who are assigned access spectrum, provide services in rural and far-flung areas also. It may be noted that the**

access spectrum is assigned district wise in all the service areas, accordingly service providers are expected to provide services in all parts of districts including in rural areas. In order to incentivise them, the Authority in its November,2011 recommendations had recommended substantial deduction, as incentives, from the license fee for such licensees who cover habitations in the phased manner. Further, in order to ensure that the licensees who have been provided access spectrum utilise it optimally, rationally, efficiently and in all parts of the districts, the Authority recommended that failure to fulfil the rollout obligations would entail penalty in the form of additional spectrum usage charges.

34. The Authority is conscious of the fact that presently, while calculating 'AGR' for limited purpose of levying spectrum charges based on revenue share, revenue from wireline subscribers is not taken into account. As mentioned in Para 2.44 and 2.47 of the recommendations, many stakeholders, in their comments to the draft guidelines, suggested that these charges should be levied only on the revenue from services provided using the Access Spectrum. As noted in Para 2.49 of the recommendations, after the examination of the submissions of various stakeholders, on the issue of definition of AGR, the Authority has recommended that only the revenue from the wireless services shall count towards AGR calculation for the limited purpose of calculation of spectrum usage charge.

## II. Guidelines for Class Licence

### 1. **Framework**

1.1 *Subject to fulfilment of relevant eligibility conditions, Class Licence shall be issued on non exclusive basis, without any restriction on the number of entrants in a licence area.*

1.2 *Class Licence will be issued only on National level basis.*

### **Views of the DoT**

1. Definition of Class licence has not been provided. For consideration of any new service to be added in future, is felt necessary to define class licence so that categorisation of services is carried out in a transparent and reasonable manner. Only two services namely VSAT and INSAT-MSS reporting service have been designated to be part of Class licence as per para 5.2 of this chapter.

Also, while giving recommendations on “Infrastructure policy” TRAI had recommended that IXPs shall also be licenced under Class Licence.

Whether class licence as a policy should be national licence, may also be recommended by TRAI after class licence is defined.

Further, in view of comments on UL, if the “Pay as you eat” concept requires consideration, whether in that situation, CL may be dispense with as these are incremental services being provided under CL.

### **TRAI Response**

**At present, Commercial VSAT service, INSAT-MSS Reporting Service and PMRTS will be covered under Class Licence. However, as recommended in recommendations on ‘Telecommunications Infrastructure Policy’ of April 2011, Internet Exchange Point (IXP) shall also be brought under Class Licence.**

**The scope of the Class licence will be of national level and will include licences where interconnectivity with PSTN/PLMN (Public switched network) is not permitted. In Clause 1.2, it has been specified that Class licences shall be issued only on National level basis.**

**Regarding the concept of 'pay as you eat' suggested by the DoT, comments given above against Para 2.4 of Unified licence may be seen.**

## **2. Eligibility Conditions**

- 2.1 *The applicant must be an Indian Company, registered under the Indian Companies Act 1956.*
- 2.2 *The Applicant Company shall have to be in compliance with the provisions applicable for existing Unified Access Service licence in the Consolidated FDI Policy 2011 issued by Department of Industrial Policy and Promotion and such modifications to the policy as may be issued from time to time. The relevant provisions are placed at Annexure-II.*
- 2.3 *FDI shall be subject to laws of India and not the laws of the foreign country/countries.*
- 2.4 (a) *The details of the equity holdings in the Applicant Company should be disclosed by the company as follows:*

| <i>Sl. No.</i> | <i>Name of Promoter/Partner</i> | <i>Indian/ Foreign</i> | <i>Equity %</i> | <i>Net Worth</i> |
|----------------|---------------------------------|------------------------|-----------------|------------------|
| 1.             |                                 |                        |                 |                  |
| 2.             |                                 |                        |                 |                  |
| 3.             |                                 |                        |                 |                  |

*(b) Details of equity holding of the Promoter/Partner Indian Companies of the Applicant Company should be disclosed by the applicant company, as follows:*

| <i>Sl. No.</i> | <i>Name of Promoter/Partner</i> | <i>Indian/ Foreign</i> | <i>Equity %</i> | <i>Net Worth</i> |
|----------------|---------------------------------|------------------------|-----------------|------------------|
| 1.             |                                 |                        |                 |                  |
| 2.             |                                 |                        |                 |                  |
| 3.             |                                 |                        |                 |                  |

## **Views of the DoT**

2.2 to 2.3 As amended in the comments given in para 2.2 to 2.3 of Chapter I above for UL.

2.4 (a) & (b) Any amendment required in the table may be incorporated while finalising the application form.

However, networth column may not be required.

## **TRAI Response**

**2.2 to 2.3 Refer the comments given in Para 2.2 to 2.3 of Unified licence.**

**2.4 (a) and (b) : Presently, the same information is sought from the applicant of VSAT licence. However, DoT may make modifications, if required.**

### **3. Application Procedure**

- 3.1 *The Applicant Company shall pay a non refundable processing fee of Rs. 25,000 (Rs. Twenty Five Thousand) for Class Licence.*
- 3.2 *The Applicant Company shall submit the application in duplicate in the prescribed Application form.*
- 3.3 *Incomplete application is liable to be rejected and the processing fee will not be refunded.*
- 3.4 *The application shall ordinarily be decided, within 60 days of the submission of the application and the applicant company shall be informed accordingly.*
- 3.5 *TRAI reserves the right to accept or reject any application without assigning any reasons.*
- 3.6 *In case the applicant is found to be eligible for grant of Class Licence, a Letter of Intent (LOI) will be issued. The applicant shall be required to deposit Entry Fee and submit Bank Guarantees / other documents and sign the licence agreement within a period as mentioned in the letter(LOI) from the date of issue of the letter (LOI) failing which the offer of grant of licence shall stand withdrawn at the expiry of permitted period.*
- 3.7 *The Applicant Company will be required to pay one time non-refundable Entry Fee before signing the license agreement, based on Letter of Intent (LoI).*

### **Views of the DoT**

Since there is no Cap on the number of licences which can be issued and for certain services, backhaul spectrum may be required, there will be a need to define a method of receiving and processing applications so that the principle of Natural Justice is followed.

It has been recommended that incomplete applications is liable to be rejected. In normal course some minor discrepancies may be there in the applications filed. There may be a need to give some time to applicant to correct the mistakes etc.

In para 3.5 the word TRAI may be replaced by DoT

Detailed procedure may be worked out in consultation with TRAI.

### **TRAI Response**

**Comments may be seen against Para 3 (Application Procedure) of Unified licence.**

**The Authority reiterates its recommendations that TRAI should be entrusted with the function of granting all Unified Licenses.**

## **5. Scope of the Licence**

- 5.1. *Class Licence will be technology neutral and is granted to provide designated service on a non-exclusive basis.*
- 5.2. *VSAT service and INSAT-MSS Reporting Service will be covered under Class Licence. However, TRAI reserves the right to include any other service under Class Licence on recommendations of TRAI.*

*(Note – The definitions of various services mentioned above are as given in Annexure III)*

### **Views of the DoT**

- 5.1 For declaring Class licence as technology neutral, it is desirable that the definition of class licence may be finalised first as mentioned in the comments given above.
- 5.2 VSAT service may be mentioned as Commercial VSAT service as licences are also given to captive CUG users for operating VSAT networks.

Any licence or permission to be given by the Licensor for Captive networks may be kept beyond the scope of Unified licensing regime as these are not public networks. The present arrangements for such licences may continue.

TRAI had earlier recommended to include PMRTS services under Class Licence (May 2010), which has now been recommended to be under category of “Licence through Authorisation” which is on fixed licence fee basis. Para 6 of Chapter –III may also be seen.

In second sentence, the word “TRAI” may be replaced by “Licensor”.

## **TRAI Response**

- 5.1 Comments given against Clause 1 may be seen for the purpose of definition of the Class licence.**
- 5.2 Agreed. Class licence shall cover PMRTS and IXPs also. Captive VSAT users shall be covered under ‘Licensing through Authorisation’.**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licenses.**

## **6. Ownership of Licensee Company**

- 6.1 *The Licensee shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Unified Licence.*
- 6.2 *The Licensee shall declare the Indian & Foreign equity holdings (both direct and in-direct) in the Licensee company and submit a compliance report regarding compliance of FDI norms and security conditions on 1st day of January and 1st day of July to TRAI. This is to be certified by the Company Secretary or Statutory Auditor of the Licensee Company.*

### **Views of the DoT**

- 6.1 The word “Unified” may be replaced by “Class” in the last line.
- 6.2 At the end of first sentence, the word “TRAI” may be replaced by “DoT”. In the second sentence, After the words statutory auditors, “countersigned by duly authorised director” may be added.

### **TRAI Response**

**6.1 Agreed. The modified clause shall be as under.**

**“The Licensee shall ensure that all the conditions mentioned in Clause 2 (eligibility conditions) are maintained during the currency of the Class Licence.”**

**6.2 The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

## **8. Renewal of Licence**

- 8.1 *Renewal – TRAI may renew, if deemed expedient, the period of Class Licence by a period of 10 years at one time upon the request of the Licensee on terms mutually agreed. The decision of TRAI shall be final in regard to renewal of licence.*
- 8.2 *On renewal, Class Licensee will be required to pay a Renewal Fee which will be as notified by TRAI from time to time.*

### **Views of the DoT**

- 8.2 The word “TRAI “may be replaced with “Licensor”.

### **TRAI Response**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

## **9. Suspension/revocation/termination/Surrender of Licence**

9.1 *TRAI reserves the right to suspend the operation of this Licence in whole or in part, at any time, if, in the opinion of TRAI, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.*

*Provided that TRAI may, if the situation so warrants, dispense with the issue of notice prior to such suspension. The decision of TRAI in this regard shall be final and binding.*

9.2 *TRAI may, without prejudice to any other remedy available for the breach of any conditions of licence, by a written notice of 60 Calendar days from the date of issue of such notice to the licensee at its registered office, terminate this licence under any of the following circumstances:*

- (i) If the LICENSEE:*
  - a) fails to perform any obligation(s) under the licence including timely payments of fee and other charges due to the Government;*
  - b) fails to rectify, within the time prescribed, any defect/deficiency/correction in service/equipment as may be pointed out by the TRAI/DoT;*
  - c) fails to comply with FDI norms;*
  - d) goes into liquidation or is ordered to be wound up;*
- (ii) on recommendation by TRAI for termination of licence for non-compliance of any or all terms and conditions of the licence.*

*Provided that the order terminating the Licence shall take effect only on expiry of 60 calendar days from the date of issue of such order.*

9.3 *Licensee may surrender the Licence, by giving notice of at least 60*

*Calendar days in advance. Unless the surrender notice is rejected by TRAI within 30 days of the date of receipt of the notice, the effective date of surrender of Licence will be 61<sup>st</sup> Calendar day counted from the date of receipt of such notice by TRAI.*

### **Views of the DoT**

9.1 to 9.3 may be amended after reconsideration by TRAI based on comments given against para 9.1 to 9.3 in respect of UL in chapter I.

### **TRAI Response**

***Comments may be seen against Para 9 (Suspension/revocation /termination/Surrender of Licence) of Unified licence.***

## **10. Penalty**

10.1 TRAI may impose financial penalty, for violation of terms and conditions of licence agreement.

| <b>No. of times</b>                             | <b>Minor violation</b> | <b>Major violation</b> |
|---|------------------------|------------------------|
| <i>1st</i>                                      | <i>1 lakh</i>          | <i>10 lakh</i>         |
| <i>2nd</i>                                      | <i>5 lakh</i>          | <i>50 lakh</i>         |
| <i>3rd</i>                                      | <i>25 lakh</i>         | <i>2.5 crore</i>       |
| <i>4th</i>                                      | <i>25lakh</i>          | <i>5 crore</i>         |
| <i>5<sup>th</sup> and subsequent violations</i> | <i>25 lakh</i>         | <i>10 crore</i>        |

10.2 Before deciding the imposition any penalty, proper opportunity will be given to licensee to present its case.

10.3 For categorising a violation as minor or major, the guiding principles shall be

- *Whether the violation is committed deliberately or inadvertently;*
- *Whether the violation is committed repeated violations;*
- *Whether the licensee is prompt in taking corrective action;*
- *The amount of loss to the exchequer;*
- *What kind of benefits were derived by licensee due to the violation;*
- *Whether the violation was restricted in a service area or was across a number of service areas;*
- *Whether the violation / breach carried out in its network by a third party beyond the control of the operator;*
- *Whether the violation has an impact on the end-user(s) and /or other licensee(s) business.*

10.4 Notwithstanding the above, the following violations be always be categorised as major violations;

- i Violation resulting in threat to the security of nation,*
- ii Violation resulting in heavy revenue losses to the Government*
- iii Wilful and illegal conduct of the Licensee outside the framework of terms and Conditions of the Licence.*

**Views of the DoT**

The proposed penalty structure is same as the structure proposed by TRAI for UL and doesn't appear to be commensurate with the gravity of violation and the type of services to be provided under Unified Licence and under the class licence. However, there is no provision for penalty in VSAT and INSAT MSSR licences.

In para 10.3, a segregation has apparently been made between National Service area of the class licence and Circle based area. Clarity is required about the actual imposition of penalty as per the proposed provision.

Other comments same as in chapter –I for UL.

TRAI may give their reconsidered recommendation.

**TRAI Response**

**The amount of penalty given under Clause 10.1 is slightly modified as under. Therefore, Clause 10.1 shall be read as**

**“TRAI may impose financial penalty (as detailed below), for each violation of the terms and conditions of licence agreement:**

| <b>No. of times</b>                             | <b>Minor violation</b> | <b>Major violation</b> |
|---|------------------------|------------------------|
| <b>1st</b>                                      | <b>1 lakh</b>          | <b>50 lakh</b>         |
| <b>2nd</b>                                      | <b>5 lakh</b>          | <b>2.5 crore</b>       |
| <b>3rd</b>                                      | <b>25 lakh</b>         | <b>5 crore</b>         |
| <b>4<sup>th</sup> and subsequent violations</b> | <b>25lakh</b>          | <b>10 crore</b>        |

**In Para 10.3, though all Class licenses are national level licenses, however, for deciding the imposition of major/minor penalty, the extent of violation in terms of specific geographical areas will need to be taken into consideration.**

## **Financial Conditions**

### **11. Fees payable**

11.1 **Entry Fee** – One time non refundable Entry Fee as detailed in Clause 4.

11.2 **Licence Fee** – An annual Licence Fee as a percentage of Adjusted Gross Revenue (AGR), as defined in the licence agreement shall be applicable. From the second year of the effective date of the Unified Licence, this Licence Fee shall be subject to minimum of 10% of the Entry fee paid.

11.3 **The Fee/royalty payable towards Wireless Planning and Coordination Wing (WPC):** In the event of a Unified Licensee being given spectrum, WPC Charges shall be payable at such time and in such manner as the WPC Wing of the DoT may prescribe from time to time.

### **Views of the DoT:**

11.2-3 Same as amended para 11.2-3 of Chapter I of UL.

### **TRAI Response:**

**Comments may be seen against Para 11 (Fee Payable) in Unified Licence.**

## **12. Bank Guarantee**

12.1 *Each holder of a Unified Licence shall be required to submit a Financial bank Guarantee (FBG). The FBG shall be equivalent to the Licence Fee payable for two quarters. The minimum annual Licence Fee is 10% of the Entry Fee, therefore, for new entrants; initially FBG shall be for an amount of Rs. 1.5 lakh. The amount of FBG shall be reviewed on six monthly basis by TRAI and 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 and any additional amount as deemed fit by the TRAI/DoT.*

### **Views of the DoT**

It is noted that financial Bank guarantee for VSAT licence is Rs 30 Lakh while the PBG is Rs 50 Lakh.

There is no mention of PBG in this para of the recommendation.

### **TRAI Response**

**As per the existing licence conditions, there are roll out conditions prescribed for PMRTS, INSAT-MSS and also for Commercial VSAT. The Commercial VSAT service licensee has to maintain a PBG of Rs. 50 lakhs valid for one year. The licensee has to, on its own, extend validity period of bank guarantee for similar terms as least one month prior to the date of its expiry without any demand or notice from the Licensor, on a year or year basis. The Authority is of the view that in case the Class licensee wants to offer Commercial VSAT service, then it has to submit the maintain a PBG of Rs. 50 lakh.**

**Also, Class licensee has to comply with the roll out obligations in respect of PMRTS, INSAT-MSS and Commercial VSAT services as per the existing licence provisions, if it decides to offer these services.**

### **13. Merger of Class Licences**

*13.1 Merger of Class Licences may be permitted as per guidelines issued by DoT from time to time.*

#### **Views of the DoT**

13.1 Currently there are no guidelines in respect of M&A, VSAT and INSAT MSSR and IXP Licences.

TRAI may recommend such guidelines.

#### **TRAI Response**

**There is no requirement to have M&A guidelines for these licensees.**

**General Conditions:**

15. *The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.*

**Views of the DoT**

15. May be amended in the same manner as per comments given in respect of Unified Licence.

**TRAI Response**

**Agreed. The amended clause shall be as given under.**

**“The Licence shall be governed by the provisions of the Indian Telegraph Act, 1885, the Indian Wireless Telegraphy Act, 1933 the Telecom Regulatory Authority of India Act, 1997, and the Information Technology Act, 2000 Act or any other relevant Act in force from time to time.”**

16. *The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.*

**Views of the DoT**

16. May be amended in the same manner as per comments given in respect of Unified Licence

**TRAI Response**

**The modified clause shall be as under**

**“The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time and instructions as are issued by DOT/TRAI.”**

17. *The Licensee shall be responsible for, and is authorized to own, install, test and commission all the Applicable system for providing the Services under this Licence agreement.*

**Views of the DoT**

17. May be amended in the same manner as per comments given in respect of Unified Licence

**TRAI Response**

**This has been already covered under Clause 26 (Security Conditions).**

20. *The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization/ bodies/Industry. Class licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA/IS.*

### **Views of the DoT**

20. May be amended in the same manner as per comments given in respect of Unified Licence

### **TRAI Response**

**Clause 20 shall be read as under.**

**“The Licensee shall provide the details of the technology proposed to be deployed for operation of the service. The technology should be based on standards issued by ITU/TEC or any other International Standards Organization. Unified Licensee is permitted to provide, service by utilizing any type of network equipment, including circuit and/or packet switches that meet the relevant International Telecommunication Union (ITU) /Telecommunication Engineering Center (TEC) / International standardization bodies such as 3GPP/3GPP-2/ETSI/IETF/ANSI/EIA/TIA /IS .”**

**Since the words “such as” occur before the words “ 3GPP/3GPP-2 ...”, there is no need for the word “etc”.**

*22. Sharing of active/passive infrastructure shall be as per the guidelines issued by TRAI from time to time.*

**Views of the DoT**

22. Currently there are no guidelines for active/passive infrastructure sharing in respect of VSAT/MSS-R/IXP licences. The issues involved in such sharing are yet to be examined in detail. Hence giving an indication of possibility of sharing infrastructure may not be appropriate at this stage.

The word “TRAI” may be replaced by “Licensor”.

**TRAI Response**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Class Licences.**

**23.** *The Licensee shall adhere to the National Numbering plan, National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standard as prescribed by TRAI, from time to time.*

**Views of the DoT**

23. No numbering resource allocation is envisaged. This para may be amended as below:

“The Licensee shall adhere to the National Frequency Allocation Plan and any other plan and technical standard as prescribed by DoT, from time to time.”

**TRAI Response**

**Agreed with a slight modification.**

**“The Licensee shall adhere to the National Fundamental plans like National numbering plan, Signalling plan, Routing plan etc along with National Frequency Allocation Plan and any other plan issued by Department of Telecommunications and technical standards as prescribed by DoT/ TRAI, from time to time.”**

## **24. Interconnection**

24.1 Eligibility for interconnection shall be determined as per the service provider's Licence agreement and TRAI's determination/orders/regulations issued from time to time. TRAI may intervene in the matter of interconnection between two service providers.

24.2 The interconnection with a telecom service provider shall have to be withdrawn, in case of termination of the licence of the Telecom service provider, within one hour or within such time as directed by the TRAI in writing, after receiving intimation from the TRAI in this regard.

24.3 The terms and conditions of interconnection including inter alia standard interfaces, points of interconnection and technical aspects will be as mutually agreed between the service providers, subject to compliance of prevailing regulations, directions and determinations issued by TRAI from time to time.

24.4 Interconnections restrictions applicable for VSAT network with other networks:-

- a. Interconnection with PSTN - Not permitted
- b. Network of other VSATs – Interconnection shall be permitted through the Hub on case to case basis, wherever the CUG nature of the network is not violated.
- c. Terrestrial data lines leased by customers of VSATs – Interconnection shall be permitted on case to case basis, wherever the CUG nature of the network is not violated.
- d. Terrestrial data lines of a public nature: - Interconnection shall be permitted through the Hub, provided it is connected to a public data network such as Internet/ INET.
- e. Overseas office of the CUG for data transfer purposes:- Interconnection shall be permitted on a case to case basis subject to

*the condition that the connection should be between the hub and the server of the overseas office through a leased line passing through an international gateway which can be monitored for security purposes.*

- f. *WAN Operators :- Interconnection shall be permitted on case to case basis, wherever the CUG nature of the network is not violated.*
- g. *Internet/INET :- The hub of VSAT Licensee shall be allowed to be connected to an internet node of his choice through a lease line taken from Telecom service provider who is authorised to sell bandwidth/ leased line. Similar inter-connection of the Hub with INET is also permitted.*
- h. *Other media to provide for redundancy: - Switchover between a terrestrial CUG network and a VSAT based CUG network belonging to the same licensee shall be permitted for redundancy purpose.*
- i. *Interconnection of CUGs: - Inter-connection between CUGs, where the CUG nature of the network is not violated, will be permitted on a case to case basis.*

### **Views of the DoT**

24.4(a) May be modified as below:

“Interconnection with PSTN/PLMN/Internet Telephony Network is not permitted.”

24.4(b) Currently interconnectivity of CUG networks on VSAT network with another CUG network is not permitted. TRAI may be requested to clarify the statement “Wherever CUG nature of the network is not violated”

INET may be deleted as this network no longer exists.

## **Response of TRAI**

**24.4 (a) Agreed. The modified clause shall be as under.**

**“Interconnection with PSTN/PLMN/Internet Telephony Network is not permitted.”**

**24.4 (b) As per existing licence agreement for provision of VSAT services, clause 17(ii), *“Interconnection shall be permitted through the Hub on case to case basis, wherever the CUG nature of the network is not violated”*. Closed User Group for CUG domestic VSAT networks is defined in the Clause 2.3 of Licence agreement.**

## **25. Quality of service**

*25.1 The Licensee shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface subject to such other directions as TRAI may give from time to time. Failure on part of Licensee or his franchisee to adhere to the Quality of Service stipulations by TRAI and network to network interface standards of TEC may be treated as breach of Licence terms.*

### **Views of the DoT**

Before this para, a new para may be considered for insertion as below:

*“While providing access to emergency services/emergency response services/services during disaster including police/Fire etc as defined from time to time, it shall be ensured that such calls shall be delivered to the designated control room, as prescribed from time to time, of the concerned authority.”*

The licensee shall follow the standard operating procedures as may be prescribed for the disaster management /emergency response services.

### **Response of TRAI**

**Agreed. The modified clause shall be as given under.**

**25.1 “While providing access to emergency services/emergency response services/services during disaster including police/Fire etc as defined from time to time, it shall be ensured that such calls shall be delivered to the designated control room, as prescribed from time to time, of the concerned authority.”**

**25.2 The Licensee shall operate and maintain the licensed Network conforming to Quality of Service standards to be mutually agreed in respect of Network- Network Interface subject to such other**

**directions as TRAI may give from time to time. Failure on part of Licensee or his franchisee to adhere to the Quality of Service stipulations by TRAI and network to network interface standards of TEC may be treated as breach of Licence terms.**

**The licensee shall follow the standard operating procedures as may be prescribed for the disaster management /emergency response services.**

### **III. Licensing through Authorisation**

1. *Subject to fulfilment of relevant eligibility conditions, Licence shall be issued on non exclusive basis, without any restriction on the number of licences.*
2. *The applicant must be an Indian company, registered under the Indian Companies Act 1956.*
3. *The Applicant Company shall pay a non refundable processing fee of Rs. 15,000 (Rs. Fifteen Thousand).*
4. *Complete application shall be decided, within 30 days of the submission of the application and the applicant company shall be informed accordingly.*
5. *TRAI reserves the right to accept or reject any application without assigning any reasons.*

#### **Views of the DoT**

1. Eligibility conditions for licence through authorisation need to be prescribed. TRAI may provide eligibility criteria.
4. Amended para-4 may be as below:

“Application shall ordinarily be decided within 30 days of the submission of the completed application and the applicant company shall be informed accordingly.

“TRAI” may be replaced by DoT.

#### **Response of TRAI**

**The Clause 1 and 2 of the ‘Licensing through Authorisation’ should be read as under.**

1. ***The applicant must be an Indian company, registered under the Indian Companies Act 1956.***
2. ***Subject to fulfilment of above eligibility conditions, Licence***

*shall be issued on non exclusive basis, without any restriction on the number of licences.*

**Suggestion of DoT on Clause 4 is agreed. The modified clause shall be as given under.**

*“Application shall ordinarily be decided within 30 days of the submission of the completed application and the applicant company shall be informed accordingly”*

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Class Licences.**

6. *The Licence will be service and technology neutral. Licensee shall be permitted to offer Voice Mail Service, Audiotex, Videotex, Unified Messaging Service and other value added services within its licence area using the network of Unified Licensee on mutually agreed terms and conditions. The Licensee shall be permitted to install dark fibers, duct space and towers, subject to the condition that these shall not be used for activities relating to commercial telecom services. The operation and tariff for the traffic passed through Unified Licensee network resources shall be as per the prevailing rules and regulations of TRAI.*
7. *Licensee shall be required to pay an annual Licence Fee of Rs. 10,000 (Rs. Ten Thousand Only).*
8. *The Licensee shall make available, on demand, to the person authorised by the TRAI/DoT, full access to their equipments/network for technical scrutiny and for inspection, which can be visual inspection or an operational inspection.*
9. *As and when required, the Licensee shall provide access of their systems to the security agencies for monitoring purpose. The Licensee shall be required to maintain call data records of all the specified calls handled by the system and system log at specified periodicity. TRAI reserves the right to call for these system logs on demand and also inspect them at site.*
10. *TRAI reserves the right to revoke/terminate/suspend the Licence in whole or in part, at any time, if, in the opinion of the TRAI, it is necessary or expedient to do so in public interest or in the interest of the security of the State or for the proper conduct of the Telegraph.*

## **Views of the DoT**

6. The services covered under authorization are expected to be of different type than envisaged under UL or CL requiring individual licenses. It may also be possible that each service type has its own technological deployment. Therefore, the words “service and technological neutral” may not be required. Licence area may also be specified by TRAI.

Definition of Value Added Services to be covered under authorization is requested from TRAI.

The meaning of “commercial telecom services” is not clear.

The word “TRAI” at the end of the para may be replaced by TRAI/DoT.

In chapter –I of recommendations, TRAI has indicated PMRTS licence under this category. However, in this para PMRTS is not included. It is assumed to be part of this para as it is not specified elsewhere.

Any new captive requirement may be covered under provisions of para 314 of Vol –XII of P&T manual.

7. While a Unified Licensee offering PMRTS will be charged licence fee on the basis of AGR, the fee for PMRTS under authorization category remains fixed. Presently, PMRTS licence fee is on % of AGR basis.

Two different dispensations for licence fee for same service is likely to create arbitrage.

- 8-10 “TRAI” may be replaced by “Licensor”.

## **Response of TRAI**

**Agreed with the suggestion that ‘Service neutrality’ may be removed. However, since, the licensee shall be free to use any technology, the licence should remain technology neutral.**

**The Authority recommends following definition of VAS or application services:**

**“Value added services are enhanced services, in the nature of non-core services, which either add value to the basic tele services or can be provided as standalone application services through telecommunication network, the basic services being standard voice calls, voice/non-voice messages, fax transmission and data transmission.”**

**Phrase ‘Commercial Telecom Services’ has been explained in Para 2.66 of the recommendations.**

**PMRTS service is covered under ‘Class Licence’.**

11. *Licensee may surrender the Licence, by giving notice of at least 30 Calendar days in advance.*
12. *The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997 as modified or replaced from time to time.*
13. *The Licensee shall furnish to TRAI, on demand, in the manner and as per the time frame such documents, accounts, estimates, returns, reports or other information in accordance with the rules/ orders as may be prescribed from time to time. The Licensee shall also submit information to TRAI as per any order or direction or regulation issued from time to time under the provisions of TRAI Act, 1997 or an amended or modified statute.*
14. *The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time.*

#### **Views of the DoT**

- 12.-13. "TRAI" in this paragraph wherever used may be replaced by "Licensor". Accordingly, "TRAI Act 1997 or an amended or modified statute" may be replaced by "relevant laws"
14. We may add the word "Instructions" after "determination". "TRAI" may be replaced by "TRAI/Licensor".

#### **Response of TRAI**

##### **Clause 12 shall be modified as given under:**

**"The Licence shall be governed by the provision of Indian Telegraph Act, 1885, Indian Wireless Telegraphy Act, 1933 and Telecom Regulatory Authority of India Act, 1997, Information Technology Act, 2000 Act or any other relevant act as modified or replaced from time to time."**

##### **Clause 14 shall be modified as given under.**

**“The Licensee shall comply with any order, direction, determination or regulation as may be issued by TRAI from time to time and instructions as are issued by the Licensor/TRAI.”**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

#### **IV. Migration of Existing Licence to Unified Licence:**

1. *On coming into force of the Unified Licence, all the existing licences issued under Section 4 of the Indian Telegraph Act 1885 shall stand automatically converted to the Unified Licence. This will be the Unified Licence (restricted). Necessary amendments shall be made by TRAI under intimation to the Licensee.*
2. *On conversion, the validity of the Unified Licence (restricted) shall be same as the validity of existing licence.*
3. *The conditions of Unified Licence (restricted) shall be the same as existing licence.*
4. *The services under such a licence will be restricted to the service(s) that the Licensee could offer and to the service area(s) permitted under the existing licence. In case an existing licensee after conversion to Unified Licence (restricted) wishes to provide services permitted within the scope of service under Unified Licence but which are not covered under its old licence, then it will have to apply for Unified Licence.*
5. *For conversion to the Unified Licence (restricted), there shall be no additional entry fee to be paid by the licensee.*
6. *A holder of Unified Licence (restricted) shall have the option to apply for and migrate to a Unified Licence.*
7. *In the event a holder of Unified Licence (restricted) desires to expand/alter the service(s) offered or service area(s) of operations, it shall be required to migrate to Unified Licence and pay the prescribed entry fee.*

*Illustration: A company 'A' has All-India licence for NLD and ILD, ISP (Category B) and CMTS/UAS Licences for service areas 2 & 3 as given in the Table below. After coming into force of Unified Licence framework, these licences shall get converted to Unified Licences (restricted) i.e. the*

scope of service of each new Unified Licence will continue to be the same as the existing licence. However, if the Company wishes to provide any other service permitted under Unified Licence, say ISP on all India basis or access services in LSAs other than service areas 2&3, then it will have to apply for migration to National level Unified Licence and will also have to pay the prescribed entry fee and fulfil all eligibility conditions as given in the Guidelines for Unified Licence.

**Unified Licences (restricted) – 6 licences**

| <b>Licence</b>   | <b>All India</b>         | <b>LSA-1</b> | <b>LSA-2</b>             | <b>LSA-3</b>             | <b>.....</b> | <b>LSA-21</b> | <b>LSA-22</b> |
|------------------|--------------------------|--------------|--------------------------|--------------------------|--------------|---------------|---------------|
| <b>CMTS/UASL</b> |                          |              | <input type="checkbox"/> | <input type="checkbox"/> |              |               |               |
| <b>NLD</b>       | <input type="checkbox"/> |              |                          |                          |              |               |               |
| <b>ILD</b>       | <input type="checkbox"/> |              |                          |                          |              |               |               |
| <b>ISP</b>       |                          |              | <input type="checkbox"/> | <input type="checkbox"/> |              |               |               |

**After migration to Unified Licence – 1 Unified Licence**

| <b>Licence</b>   | <b>All India</b>         |
|--|--------------------------|
| <b>CMTS/UASL</b>   | <input type="checkbox"/> |
| <b>NLD</b>   | <input type="checkbox"/> |
| <b>ILD</b>   | <input type="checkbox"/> |
| <b>ISP</b>   | <input type="checkbox"/> |
| <b>All other Services defined in the scope of Unified Licence.</b> | <input type="checkbox"/> |

8. In respect of 6 and 7 above, the Entry Fee already paid, in case of NLD/ILD/UAS /CMTS licence only, will be adjusted on pro rata basis for the balance validity period of the existing Licence as per formula given in the table below. However, in cases where the Entry Fee already paid exceeds the Entry Fee to be paid now for migrating to Unified Licence, there will be no refund of the Entry Fee.

| <b>Type of Existing Licence</b>    | <b>Migration to</b> | <b>Rebate</b>  |
|------------------------------------|---------------------|--|
| ILD/NLD                            | National level      | Rs 12.5 lakh x No of years remaining for existing NLD/ILD Licence validity.  |
| UASL/ CMTS                         | Service area level  | Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity.   |
| UASL /CMTS in various service area | National level      | Rs 10 lakh, 5 lakh and 2.5 lakh for Metro/Cat A, Cat B and Cat C service areas respectively x No of years remaining for existing UASL/CMTS Licence validity subject to maximum limit of Rs. 15crore. |

9. On migration to the Unified Licence, the validity of the licence shall be 20 years.
10. On expiry of the validity of the Unified Licence (restricted), the licensee shall be required to take a Unified Licence.

### **Views of the DoT**

It is presumed that for each of the category of licenses the name will be changed to Unified License (Restricted) suffixed with the name of the current license. As an example USAL may be called UL (Restricted)-UASL.

Uniform licence fee has been proposed to be implemented in two steps. On migration, in the first year of ULF, it needs to be clarified whether the licence fee shall be the ULF proposed in the first year or as applicable in UL regime.

8. It is noted *that* rebate for 10 years license period is equal to entry fee for obtaining a 20 year service area license. While as per Para 9 on migration to UL the validity of license is proposed to be 20 years.

For the sake of simplicity and proper regulation of license periods, one of the options is to keep the original licence period unchanged on

migration as in UL (Restricted). It will also help in Refarming the spectrum at the time of renewal as Refarming is linked to renewal of license.

Further, looking at the migration of CMTS licensees to UASL regime, even after 10 years, both types of licences continue to exist today for various reasons.

It needs to be kept in view that the exercise of changing the names of the licensees without migration to UL regime may further add to confusion and some of the UL restricted may continue for next 20 years. (e.g. UL-Restricted-ISP)

### **Response of TRAI**

**DoT has mentioned in its response that it is presumed that for each of the category of licenses, the name will be changed to Unified License (Restricted) suffixed with the name of the current license. As an example USAL may be called UL (Restricted)-UASL.**

**The Authority does not agree with this proposition. All the licences will be Unified License (Restricted) on automatic conversion to the Unified Licence.**

**In the Unified Licensing regime, there are no different provisions in respect of licence fee. Therefore, in all cases, imposition of the licence fee shall be at the same rate.**

**The concept of different categories of service areas has been removed in the present guidelines and uniform Entry Fee has been proposed in respect of all the service areas except J&K and NE. Accordingly, the rebate for the existing licences on migration to Unified Licence shall be as given under.**

| <b>Type of Existing Licence</b>           | <b>Migration to</b>       | <b>Rebate</b>   |
|---|---------------------------|---|
| <b>ILD/NLD</b>                            | <b>National level</b>     | <b>Rs 12.5 lakh x No of years remaining for existing NLD/ILD Licence validity.</b>  |
| <b>UASL/ CMTS</b>                         | <b>Service area level</b> | <b>Rs 5 lakh for each service area except J&amp;K and NE and Rs. 2.5 lakh J&amp;K and NE service area x No of years remaining for existing UASL/CMTS Licence validity.</b>  |
| <b>UASL /CMTS in various service area</b> | <b>National level</b>     | <b>Rs 5 lakh for each service area except J&amp;K and NE and Rs. 2.5 lakh J&amp;K and NE service area x No of years remaining for existing UASL/CMTS Licence validity subject to maximum limit of Rs. 15 crore.</b> |

**Regarding the suggestion of DoT that the original licence period may be kept unchanged on migration to Unified Licence as refarming of spectrum is linked to the renewal of licence, the Authority is of the view that Clause 12 of the guidelines clearly stipulates that in the event a holder of Unified Licence (restricted), having spectrum, obtains a Unified Licence, it will continue to retain the spectrum assigned for the remaining validity period of the existing Licence. Therefore, the Authority is of the view that migration to Unified Licence shall have no effect as far as refarming is concerned.**

11. *IP-I shall be covered under Unified Licence. The existing IP-I providers would be required to take the Unified Licence as soon as the same comes into being and the conditions in the Unified Licence will apply to IP-I provider too. IP-I shall have to pay the prescribed entry fee to take the Unified Licence. Only those IP-I companies who either wants to provide telecom services themselves or are in the business of selling/leasing/renting their passive/active infrastructure to other telecom licensees would be required to take the Unified Licence. IP-I companies, who are not engaged in activities relating to commercial telecom services, would be required to take 'Licence through Authorisation'.*

**Views of the DoT:**

11. Two types of IP-I companies have been indicated. The second type indicated in the last sentence of the para indicates that there will be IP-I companies who do not provide commercial telecom services. The commercial telecom services needs clarification along with the scope of category suggested.

Further, the decision of the Govt. conveyed through press release dt. 15-2-12 may also be kept in view.

Comments in para 1 of UL guidelines may also be seen regarding IP-I.

TRAI may therefore requested to examine the desirability of migration of IP-I to UL regime.

**Response of TRAI:**

**For the clarification of 'commercial telecom services' discussed in reference to IP-I service providers, Para 2.66 of the recommendations may be seen. Also Response of Authority may be seen against Clause 1 of Unified Licence regarding IP-I.**

12. *In the event a holder of Unified Licence (restricted), having spectrum, obtains a Unified Licence, it will continue to retain the spectrum assigned for the remaining validity period of the existing Licence. In case of 3G /BWA spectrum holders, the spectrum assigned will be retained for the period for which the spectrum blocks have been assigned. In both the above cases, the Unified Licensees shall be allowed to provide all services permitted under the Unified Licence, without however changing the channel plan of the allocated spectrum. The Licensee holding access spectrum shall be required to maintain the net-worth and paid up equity as per existing licence, in case these are higher than the amount prescribed in the Unified Licensing Regime.*
13. *Roll out obligations, if any, linked with the existing service providers shall remain applicable even after migration to Unified Licence Regime and shall be subject to changes/modifications from time to time.*

### **Views of the DoT**

12. We may add the following sentence after “.....channel plan of the allocated spectrum”

“Upon completion of remaining period of existing license, spectrum shall be assigned based on the prevailing guidelines regarding spectrum allocation /refarming of spectrum.”

TRAI may further clarify about making process for liberalisation of the spectrum won through auction for 3G and BWA.

Further BWA spectrum has been assigned to ISPs and UASL operators where the scope of licences is different.

Whether the scope of services to be provided by such ISP and UASL who bid for the spectrum under the relevant provisions of NIA/ conditions of respective Licences, on migration to UL, would be limited to their original scope or it would become uniform under proposed UL guidelines.

Migration from a particular licence to UL is a specific activity. TRAI may examine whether separate guidelines for migration from respective licence would be required.

### **Response of TRAI**

**As per the recent Supreme Court directions, spectrum is to be assigned through the auction process. Besides, licences and spectrum have been delinked. The Authority therefore does not feel it relevant to add the sentence as suggested.**

### **Liberalisation of spectrum in 3G/BWA**

**In 2001, the auction was for licences embedded with spectrum having specific channel plan. The UAS licences issued thereafter, were also embedded with spectrum and continued to have restrictions on channel plan. Liberalisation of spectrum refers to the removal of technology restrictions including by way of “channel plan” to give the licensee an option to deploy newer technologies. In the case of the spectrum that was auctioned in the year 2010, it was without any restricted channel plan or predefined guard bands within the assigned spectrum, except in case of 3G spectrum, carrier of 5 MHz was mentioned. Clause 1.1.3 of the Information Memorandum dated 23<sup>rd</sup> October 2009 as well as clauses 2.1 and 3.1.2 of the Notice Inviting Applications (NIA) state that services can be offered as per the terms and conditions of the licence obtained by the operator. Here too, the successful bidder for BWA spectrum could obtain any of the access service licenses viz., UAS/CMTS/ ISP category**

**‘A’ licence. The successful bidders are also not prohibited from obtaining any licence that may be issued by the Government from time to time under the prevalent policies. Thus, it is clear that this spectrum i.e. the 3G/BWA spectrum, was fully liberalised without any restriction on the technology to be used/services to be provided. Accordingly, once a BWA spectrum holder whether holding a UAS licence or ISP licence, migrates to Unified Licence, the spectrum holder can offer any services that are permitted under the Unified Licence. It is noteworthy that the spectrum given in the year 2010 was through an open auction and the full market price was paid for by the successful bidders. And it was without any restriction on the technology to be used. Therefore, the BWA spectrum assignee, whether holding a UAS licence or ISP licence, can migrate and obtain unified licence and the scope for provision of services would be uniform under the Unified Licence.**

**In the view of the Authority, therefore, the question of “making process for liberalisation of spectrum won through auction for 3G and BWA” does not arise since the spectrum that was auctioned was already liberalised spectrum.**

**Also, in the view of the Authority, the current recommendations sufficiently cover migration from a particular licence to Unified Licence and no guidelines for migration are required.**

## **Chapter V: Migration of Existing Licence to Class Licence**

- 1. On coming into force of the Class Licence, all the existing licences issued, under Section 4 of the Indian Telegraph Act 1885, issued for VSAT and INSAT-MSS shall stand automatically converted to the Class Licence. This will be the Class Licence (restricted). Necessary amendments shall be made by TRAI under intimation to the Licensee.*

### **Views of the DoT**

We may add the word “commercial” before the word V-SAT.

“TRAI” be replaced by “Licensor”.

### **Response of TRAI**

**Agreed with the suggestion that V-SAT may be replaced by Commercial V-SAT. Accordingly, modified clause shall be as given under.**

**“On coming into force of the Class Licence, all the existing licences issued, under Section 4 of the Indian Telegraph Act 1885, issued for Commercial VSAT and INSAT-MSS shall stand automatically converted to the Class Licence. This will be the Class Licence (restricted). Necessary amendments shall be made by TRAI under intimation to the Licensee.**

**The Authority reiterates its recommendations that the TRAI should be entrusted with the function of granting all Unified Licences.**

2. *An existing Licensee, on migration to a Class Licence (restricted), will continue to be governed by the same conditions and the validity period as per the existing licence. It shall also be entitled to retain the spectrum assigned, if any, for the validity period of the existing Licence.*

### **Views of the DoT**

The observations here are same as against para-9 of Chapter –IV regarding validity of license after migration to Class license.

### **Response of TRAI**

**No comments have been given by DoT specifically against Para 9. However, comments given by TRAI in Chapter IV may be seen.**