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Shri Arvind Kumar,
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New Delhi - 110 002

Subject: TRAI Consultation Paper No.19/2012 on Definition of Adjusted Gross Revenue (AGR) in Licence Agreements for provision of Internet Services and minimum presumptive AGR dated 28th December 2012.


Dear Sir,

Association of Competitive Telecom Operators (ACTO) is pleased to submit its comments on TRAI Consultation Paper No.19/2012 on Definition of Adjusted Gross Revenue (AGR) in Licence Agreements for provision of Internet Services and minimum presumptive AGR dated 28th December 2012.

We hope that our comments (enclosed as Annex) will merit consideration of the Hon'ble Authority.

Thanking you,
Respectfully submitted

Yours sincerely,
for **Association of Competitive Telecom Operators**


S.C.Saxena
Director

Annex

ACTO's response on TRAI's Consultation Paper on Definition of Adjusted Gross Revenue (AGR) in Licence Agreements for provision of Internet Services and minimum presumptive AGR .

- The Association of Competitive Telecom Operators (ACTO) is pleased to submit its comments to the Telecom Regulatory Authority of India (TRAI) Consultation Paper No.19/2012 dated 28.12.2002 on *Definition of Adjusted Gross Revenue (AGR) in License Agreements for Internet Services and minimum presumptive AGR.*
- At the outset we thank the Hon'ble Authority for bringing out the consultation paper on the subject matter. ACTO has been requesting the Hon'ble Authority to address the issue of defining the components of Adjusted Gross Revenue (AGR) for levying license fee in the context of Unified License. Somehow, TRAI has not addressed the same in its recommendations dated 16th April 2012 stating-*"Regarding the revenue which shall be taken into account for calculating GR/AGR for levying of licence fee, the Authority has not proposed any change in the definition of GR/AGR as the issue requires deeper study"*.
- Given the fact that the Unified Licensing will be reality in near future, it is important that the previous aberration that exists in the AGR definition of the licenses need to be reviewed and addressed under the Unified License after industry consultation.
- The definition of Adjusted Gross Revenue (AGR) for payment of license fee needs to be reviewed to ensure level playing field among the service providers. The present definition subjects all avenues of revenue (telecom and non-telecom) accrued to the licensee company to license fee. The permissible deductions are restricted only to voice based pass through charges (interconnection), service and sales tax paid.
- The revenue accrued only from telecom sources and accrued under the strength of the telecom license needs be considered for license fee payment purposes.
- The AGR definition should eliminate the issue of **multi stage assessment of license fee** which is currently in vogue and severely impedes competition in the enterprise services and data sector. Therefore, input cost (i.e. interconnection/IUC and

bandwidth cost for voice and data respectively) should be allowed for deduction while calculating AGR.

- Further the license fee should be based on actual revenue of the service provider without any linkages to the concept of presumptive AGR.

ACTO's comments on the specific questions of the consultation paper are given below:

Question No. 1

Comments on definition of AGR for all three categories of ISP licences ?.

ACTO Response:

All the categories of ISP licenses should have a uniform principle on AGR definition. This should only consider revenues accrued on the strength of the underlying telecom license and exclude revenue which is not accrued on the strength of the license. Interconnection cost should also consider payment made for input bandwidth charges which forms an integral part of internet / data services. This will eliminate the issue of **multi stage assessment of license fee** which is currently in vogue and severely impedes competition in the internet, enterprise services and data sector. Therefore, input cost (i.e. interconnection / IUC and bandwidth cost for voice and data respectively) should be allowed for deduction while calculating AGR.

Question No. 2

Should minimum presumptive AGR be applicable to BWA Spectrum holders under Internet Service/Access Service license(s) and other licenses with or without spectrum, including access service licenses? If yes, what should the value of minimum presumptive AGR?

ACTO Response

There should not be any presumptive AGR in the telecom sector as the concept is contrary to the principles of revenue sharing regime adopted in 1999. Presumptive AGR will entail

taking the sector back to the pre 1999 era wherein irrespective of the fact whether service is commenced, revenue is accrued or difficulties encountered in roll-out or getting statutory permissions a fixed charge has to be paid.

The charging based on presumptive AGR being charged to enforce roll-out obligation and only have serious player in the ISP segment, is principally inappropriate. The presumptive charge is a continuous levy and continues despite the operator having rolled out the services, thus, the logic of it being charged to drive operator to roll-out the service or only have serious players in market, does not hold good. It is a very well-known fact that spectrum is a very scarce and equally high premium resource and operators have already made huge investment to win the spectrum in auction and can never be considered non serious players.

The better way of ensuring that the operators roll-out the service within the given timeframe is to either have punitive action on operator who have not rolled out prescribed services within the stipulated timeframe or to have some other levy payable by them only till the time they start the services under the license as stipulated under the roll-out obligation.

Thus, we do not support any levying of minimum presumptive AGR for any of the licenses in question.

Question No. 3

Please suggest the amendments required in the formats of statement of revenue and licence fee reported by various categories of Internet service licensees and UAS licensees.

ACTO Response

ACTO is of the view that the revenues accrued only from telecom sources need be considered for license fee payment purposes. Revenues from internet services should also be excluded for the purpose of calculating the AGR. Thus, any income from pure internet be allowed as admissible deduction in all cases. The formats of statement of revenue and license fee should be drawn based on the broad principles stated above.
