

VSNL RESPONSE TO CONSULTATION PAPER

Q1. At present, there are 389 licensed ISPs out of which only 135 are offering Internet services. Top 20 ISPs cater to 98% Internet subscriber base. In your view, is there a rational for such a large number of ISPs who are neither contributing to the growth of Internet nor bringing in competition in the sector? Suggest appropriate measures to revamp the Internet service sector.

Although top 20 ISPs cater to 98% Internet subscriber base, there is a definite role for regional and local ISPs, who provide services in the various regions/areas where larger ISPs may not have started operations. Also, these regional and local ISPs provide regional and local content and services and may become carriers of localized net based services when the IT applications proliferate in a big way.

The large number of ISPs who have taken license but are dormant and yet to start operations/services should be given an opportunity to do so before taking any action like cancellation of the license.

For revamping the Internet services sector, we need to strengthen and support the ISPs. Some of the measures in this regard are as follows:

1. For the dial-up Internet access services being provided by the ISPs, the call charges for such services being provided by Access Providers should be mandated by TRAI so that they are affordable as well as uniform across the country which would encourage and grow the dial-up Internet access service.
2. Since ISPs are responsible for the generation of the call charges revenue in respect of Internet access calls for Access Providers, the Access Providers should pay a revenue share out of the call charges to the ISPs which would give a fillip to the financial viability of the ISPs. This is an internationally prevalent practice to support the growth and viability of ISPs.
3. The definition of the Point of Presence (PoP) for the ISPs should be amended so that ISPs are able to provide services in more than one SSA through a single PoP provided they have necessary technical and commercial arrangements with the Access Providers/ NLDOs for carriage of IP traffic.
4. Infrastructure sharing should be specifically allowed for the ISPs. ISPs should be allowed to share RAS with each other. Since ISP is also an access service provider who is allowed to lay wireline/wireless local loop/ last mile, they should be allowed to share the last mile with other service providers like UASPs/NLDOs/ILDOS on the basis of a mutual commercial agreement. This will create a new stream of revenue to improve the economic viability of the last mile which is being created by the ISPs. Since all other licences allow for infrastructure sharing the same should be extended to the ISPs.

5. There is a distinct paucity of wireline last mile in the telecom service sector which is adversely hampering the growth of broadband services in this country. The recommendations given by TRAI on the issue of unbundling of local loop should be pursued with the Licensor for approval of the same as this would increase broadband penetration and competition in the broadband sector thereby leading to improved customer services and lowered tariffs. In countries where last mile unbundling is permitted, it has been observed that this has resulted in better monetization of assets for last mile owners.
6. Support from the USO fund should be provided to the ISPs for rolling out networks in rural areas.
7. It is expected that in this Year of Broadband, hundreds of thousands of customers will be served by wireless broadband technologies resulting in the proliferation of an equivalent number of CPEs. Hence, it is imperative that CPEs for broadband services should be treated at par with other wireless devices (e.g. mobile handsets) in so far as regulatory levies and import procedures are concerned. There should not be any import licence required for importing Broadband wireless CPEs and the same should also be exempted from royalty charges which are presently required to be paid. This would go a long way in increasing wireless broadband services in the country and reducing entry costs (including CPE) to the customer.
8. For promoting broadband services, there should be exemption for all equipment used for such services from customs duty, excise duty and sales tax so that input costs of broadband service providers are reduced.

Q2. Due to limited availability of spectrum for wireless broadband access, and high cost of creating last mile infrastructure, many ISPs are left with only option to provide Internet dialup access services. With increasing penetration of broadband, what efforts are required to ensure viability of such ISPs in changing scenario? Please give suggestions.

To ensure viability of ISPs in the scenario where broadband penetration is increasing, the wireline last mile of the Access Providers should be unbundled and the recommendations given in this regard by TRAI should be followed up with the Licensor. Further, in respect of dial-up services, ISPs should be given a revenue share by the Access providers to promote the Internet dial-up access service. ISPs should be allowed to share their infrastructure with the other service providers on the basis of a commercial agreement, which would become an additional revenue stream for the service providers.

A very important avenue of growth and viability for the ISPs would be to enable them to offer access services including basic telephony/unrestricted IP telephony. Current licencing regime does not provide for such a basic services licence, unless the service provider is willing to take up a UASL licence, which comes bundled with 2G spectrum

and hence has a high entry fee. It is suggested that a new Access Services license category (without 2G spectrum) having a nominal entry fee be created. The TRAI has already, in its Unified Licencing recommendation, proposed such a licence and devised a basis for calculating the entry fee (registration charges) and other terms and conditions.

Thus, every broadband connection provided by these Service Providers who obtain the new proposed Access Service license (without 2G spectrum) would contribute towards the crucial tele-density and would also result in the growth of the fixed services in the country, which is presently on the decline.

Based on TRAI's recommendations on Broadband Wireless spectrum policy, ISPs are permitted to obtain / bid for spectrum for BWA services. In the event that after introduction of the new licence category (as above), any UASL (without 2G spectrum) wishes to offer telephony services using BWA spectrum, it should be allowed to do so, while ensuring a level playing field and no-worse off position for the existing UASL and CMSP licence holders.

Q3. At present limited services are permitted under ISP licenses. There is no clarity in terms of some services whether they can be provided under ISP licenses. Do you feel that scope of services which can be provided under ISPs licenses need to be broadened to cover new services and content? Suggest changes you feel necessary in this regard.

The relevant provisions of the ISP license are reproduced as under:

“35. SERVICES OR SERVICE means Internet Access/content services including Internet telephony as mentioned in Clause 1.14 of Schedule 'C'

Thus, an ISP is entitled to provide all types of Internet Access and content services and a restricted form of Internet Telephony service as provided for in Clause 1.14 of Schedule “C” of the ISP license. Content services appear to be already covered under the existing license and content broadcasting on live basis (Broadcasting Services) can be one of the additions which can be suggested. Due to the fast-paced changes in the Internet world, it is difficult to envisage all possible emerging and future IP services. Therefore, ISP license could permit ISPs to provide all IP services (except unrestricted Internet Telephony).

In case any ISP wishes to provide other services, e.g. unrestricted Internet Telephony, it can obtain a UASL (without 2G spectrum) license, as suggested above.

Q4. UASL/ CMTS licensees have been permitted unrestricted Internet telephony however none of them are offering the service. ISPs (with Internet telephony) can provide Internet telephony with in scope defined in license condition. The user friendly and cheaper devices with good voice quality are increasing Internet

telephony grey market. Please suggest how grey market operations can be curbed without depriving users to avail such services?

The main reason for grey market in international calling is the existence of arbitrage due to ADC and efforts should be made to abolish ADC at the earliest. If the ADC is removed as planned by TRAI by 2008, then the grey market would also disappear along with it.

It has been stated in the Consultation Paper that customers would prefer services that are convenient and at lowest cost, even if they are “illegal” / unlicensed. If such services can be provided legally through licensed operators, then customers would surely prefer them since they will have better customer service and financial guarantee. The suggestion to introduce the new UASL (without 2G spectrum) license category would encourage the entry of licensed operators and provision of such Internet Telephony services in a legal manner. This would also cause the grey market to further reduce.

Q5. How to address the issue of level playing field amongst the licensees of UASL, CMTS and ISPs?

The issue of level playing field amongst the licenses of UASL, CMTS & ISPs can be addressed by creating, as suggested above, a new Access License category, which have terms and conditions that are benchmarked to / derived from existing access licenses. Such basis has already been determined by TRAI and is available in its recommendations on Unified Licensing Regime. Thus, the Level playing field issue can be addressed at the same time while providing an option for ISPs to obtain a new license and therefore provide additional services, such as unrestricted Internet Telephony. For existing services being provided by ISPs, e.g. restricted Internet Telephony, we believe that a level playing field already exists.

For those ISP Licensees who do not want to obtain the proposed Access Service License (without 2G spectrum), further steps should be taken so that the only services which are allowed as per the License are provided by them.

Q6. The emerging technological trends have been discussed in chapter 3. Please suggest changes you feel necessary in ISP licenses to keep pace with emerging technical trends?

The following changes may be considered for incorporation in the ISP licence in order to keep pace with the emerging technical trends.

- i) Encryption at the higher bit rate than the one specified in the licence should be permitted to keep pace with the advancement in the technology.
- ii) The enabling provision for the use of IPv6 should be introduced in the licence agreement as the present licence permits only IPv4.

- iii) The scope of service of the ISP licence should be clarified so as to include adoption of new IP based application services.
- iv) The current Internet Telephony guidelines permit certain types of devices and standards that can be used for providing restricted Internet Telephony services. With changes in technology and standards and the proliferation of new IP devices, the guidelines should be broadened to the following:
 - a) Any IP device to any IP device (within India or abroad)
 - b) Any IP device to PSTN abroad
(IP devices based on any IP telephony standard (in addition to SIP / H.323) to be permitted)

Q7. The service roll out obligations under ISP license is very general and can be misused by non-serious players. Do you feel the need to redefine roll out obligations so that growth of Internet can be boosted both in urban and rural areas? Give suggestions.

The imposition of roll out obligations on a service provider, historically, has not been very successful during the liberalization of telecom services sector. The liberal licensing policy changes in respect of Long Distance Services and Access service providers have reduced the roll out obligations considerably. The emphasis of the Government thereafter has been to encourage more number of service providers. Increase in competition leads to lower tariffs, higher number of customers and subsequently at higher volumes, even areas with low potential become a viable business case for service providers. It is evident from the case of mobile services that competition and exploding market potential has forced all service providers to cover significantly larger geographical areas, beyond the stated roll-out obligations.

Roll out of services in any service area is a commercial proposition based on the level of investment required and the expected returns thereon. There is a need to encourage the proliferation of the network in the country by providing support to the service providers, in various forms, including for instance, USO funding and infrastructure sharing. Therefore, there may not be any need to redefine the roll out obligations of ISPs.

Q8. Do you feel that ISPs who want to provide unrestricted Internet telephony and other value added services be permitted to migrate to UASL without spectrum charges? Will it boost Internet telephony in India? What should be the entry conditions? Give suggestions.

As suggested earlier, ISPs who want to provide unrestricted Internet telephony or any other access service should be permitted to obtain a new licence, called the UASL (without 2G spectrum). The entry fee / registration charges for such a license should be

nominal and based on earlier recommendations of TRAI on the Unified Licensing regime. Other terms and conditions have also been recommended by TRAI earlier. This new category of licence would definitely give a boost to Internet telephony in India as it would provide an opportunity to service providers to provide multiple services on the broadband infrastructure being created by them. Thus, every broadband connection provided by these licensees would also contribute towards the tele-density of the country.

Q9. UASL/ CMTS licensees pay higher regulatory levies as compared to ISPs for provision of similar services. Do you feel that similar levies be imposed on ISPs also to maintain level playing field? Give suggestions.

In respect of Internet content and application services, the level playing field can be established by exempting UASL/CMTS from payment of regulatory levies as ISPs are also not paying any licence fee. Imposition of licence fee on Internet access/content/application services/broadband services on ISPs would be a retrograde step as we still have a long way to go in terms of proliferation of these services and development of local content. The licence fee on restricted Internet telephony services has already been introduced and takes care of the level playing field issue.

Q10. Virtually there is no license fee for ISPs at present. The amount of performance bank guarantee (PBG) and financial bank guarantee (FBG) submitted by ISPs is low. Do you feel the need to rationalize the license fee, PBG, FBG to regulate the Internet services?

There appears to be no need to modify the existing terms of the ISP licence in respect of licence fee, PBG and FBG as these have been fixed keeping in mind the need to provide affordable services to the end user.

Q11. At present ISPs are paying radio spectrum charges based on frequency, hops, link length etc. This methodology results in high cost to ISPs prohibiting use of spectrum for Internet services. Do you feel that there is a need to migrate to spectrum fee regime based on percentage of AGR earned from all the revenue streams? Give suggestions?

There is a need to migrate the radio spectrum charges from the existing link/ site based methodology to the one based on percentage of AGR earned from such wireless based Internet access/broadband/Internet telephony services. The other revenue streams of ISPs which do not require the spectrum as an input should not be counted towards the calculation of spectrum charges. This is consistent with the recommendations of TRAI in regard of Broadband wireless spectrum policy.

Q12. The consultation paper has discussed some strategic paths to boost Internet telephony, bring in level playing field vis a vis other operators, and regulate the

Internet services. Do you agree with the approach? Please give your suggestion regarding future direction keeping in view the changing scenario.

We agree with the approach given in the Consultation Paper in respect of providing an opportunity for ISPs to obtain a new Access Licence without 2G spectrum, to enable them to provide additional services such as unrestricted Internet telephony using their last mile infrastructure. This would give a boost to the teledensity of the country apart from having a vital improvement in the business case for creating new last mile infrastructure, which is critical to the country's broadband penetration. This proposed new licence category would also take care of level playing field issues vis-a-vis UAS Licencees. Those ISPs who do not wish to migrate can continue in the existing licensing regime and can provide restricted Internet telephony as well as other Internet access/content and IP services.