



Telecom Regulatory Authority of India



Recommendations

on

Review of Terms and Conditions for Registration of

Other Service Providers (OSPs)

(Response to back reference dated 26.09.2020 received from Department of Telecommunications on TRAI's Recommendations dated 21.10.2019)

28th September, 2020

Mahanagar Door Sanchar Bhawan
Jawahar Lal Nehru Marg,
New Delhi- 110 002
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CHAPTER – I : INTRODUCTION

1.1 DoT vide its letter dated 10th September 2018 sought the recommendations of TRAI on the terms and conditions for registration of Other Service Providers (OSPs) under Section 11(1)(a) of the TRAI Act, 1997. Vide above referred letter DoT requested TRAI to review the technical, financial and regulatory requirements, scope of operations and the terms and conditions of registrations of OSPs in a comprehensive and holistic manner. DoT had desired that a technology neutral framework is required to be devised to promote innovations for setting up the OSP service delivery platform in the most cost-efficient manner for faster promotion of OSPs in the country. At the same time, DoT had requested that it is essential to ensure that the security aspects are guarded in national interest and there is no infringement of the scope of the licenses of the TSPs.

1.2 A Consultation Paper (CP) on 'Review of terms and conditions for registration of Other Service Providers (OSP)' was issued on 29.03.2019 seeking comments from the stakeholders. An Open House Discussion (OHD) was also conducted with the stakeholders on 15.07.2019 in New Delhi. After considering the views of the stakeholders and its own analysis, the Authority issued the Recommendations on Review of Terms and Conditions for registration of Other Service Providers (OSPs) on 21.10.2019.

1.3 DoT vide letter dated 26.09.2020 informed TRAI that the recommendations have been examined by DoT and referred back the issues annexed with the letter to TRAI under Section 11 of TRAI Act, 1997 for reconsideration. Copy of the DoT's reference back letter is attached as Annexure-I. Chapter I contains a brief background. The Authority's earlier recommendations, the view of DoT thereon and the response of the Authority on the issues referred back are given in Chapter II.

CHAPTER – II : ISSUE-WISE RESPONSE

The Authority has examined the observations of the DoT on its recommendations dated 21.10.2019. It has been noticed that DoT has referred back the recommendations by grouping it under eight issues viz Categorisation of OSP based on voice and data (recommendations at Para 3.5), Bank Guarantee (recommendations at para 3.18, 3.19, 3.24), CCSP/HCCSP (recommendations at para 3.21), Network Diagram (recommendation at Para 3.10), EPABX for International OSP (recommendations at para 3.26), Penalty (recommendations at para 3.18, 3.21, 3.22, 3.24 and 3.28), Work from home (recommendations at para 3.24) and Interconnection of data and voice path (recommendations at para 3.22). These referred-back recommendations, DoT's observation and Authority's response after due deliberation and reconsideration issue wise are given below:

1. Issue related to Categorisation of OSP based on Voice or Data:

Para 3.5 of Authority's Recommendations dated 21.10.2019:

The Authority, recommends that for the purpose of registration, the OSPs are categorised in following categories:

a) *Voice-based OSP*

An OSP providing voice-based services (using voice call or voice-based application).

b) *Data/Internet based OSP (without voice component)*

An OSP providing services which are purely based on data/ internet and no voice connectivity is involved.

The above categorization of OSP will be applicable to both Domestic and International OSP.

DOT's view:

In the present scenario where both Voice and Data are transported as data packets over IP networks, the categorisation of OSPs on the basis

of voice and Data/Internet may not be relevant. It may lead to misuse by OSPs based on Data/Internet for transiting voice calls. Hence, DOT is of the view that categorisation of OSPs on the basis of voice and data is not required and both type of OSPs should be required to take registration.

TRAI has recommended that the Data/Internet based OSPs (without voice component) should be registered in the form of intimation without providing details of how the cases of intimation will be scrutinised. DOT is of the view that these OSPs should also be brought under registration and scrutiny process as applicable for Voice based OSPs since the online process is simple, fast and easy to administer. The registration process will allow good record keeping and proper scrutiny of the information of all OSPs including Data/Internet based OSPs (without voice component).

Response of TRAI

The Authority is of the view that the service being offered by Voice based and purely Data based OSPs are different and require differentiation. The Voice based OSPs are performing such kind of outsourcing services where there is connectivity with Voice based public network such as PSTN, PLMN or IP based Voice Services network, whereas the Data based OSPs are doing the outsourcing work using internet only. As explained in para 2.15 of the recommendations, the Voice based OSP requires monitoring with regard to NLD/ ILD bypass etc. which is not the case in purely Data based OSP. The transport of voice traffic in the backbone, whether in form of circuit switched or data packets, does not make any difference when it comes to ensuring bypass of NLD / ILD network. In view of the fact, registration is not recommended for purely Data based OSPs, having no connectivity to carry the voice traffic. It would give a boost to and encourage faster roll out of Data based OSPs, resulting in ease of doing such businesses.

Further, with reference to the concern raised by DoT that how the cases of intimation will be scrutinised, it may be clarified that the format for online registration for Voice based OSPs and format for online intimation of Data based OSPs shall be same containing exactly the same fields of information. The similar information will, therefore, be available in electronic form in case of Data based OSPs also and DoT can scrutinise the submitted information to their satisfaction, in addition to the record keeping.

Therefore, the Authority reiterates its recommendations.

2. Issue related to Bank Guarantee:

Para 3.18, 3,19 and 3.24 of Authority's Recommendations dated 21.10.2019:

Para 3.18:

The technical terms and conditions of infrastructure sharing between domestic and international OSP under option 1 and 2 mentioned in Clause 4, Chapter IV of existing terms and conditions for OSP registration may be continued. However, with regard to general conditions of the infrastructure sharing, the provisions related to signing of agreement, bank guarantee and certificate of manufacturer for logical partitioning capability should be removed. The sharing of infrastructure provisions therefore would become co-terminus with the period of registration. Provisions should be made in the portal to fill up the sharing requirement details at the time of applying for registration or at a later stage.

Para 3.19

In case of violation of infrastructure sharing conditions, the OSP registration should be cancelled and the OSP company/LLP shall be debarred from taking registration for 3 years. In addition, a financial penalty of Rs. 50 Lakh in case of option 1 and Rs. 1 Crore in case of option 2 may be imposed. In case, the OSP fails to comply to the penalty order, penal action as provided in the Indian Telegraph Act may be

initiated in addition to cancellation of registration. These provisions may be incorporated in the registration certificate issued to the OSP.

Para 3.24

The Work-From-Home (WFH) is an extended agent position of the OSP centre. The requirement of PPVPN for WFH may be removed and the WFH may be connected to OSP centre using any commercially available VPN. However, the provision of prior intimation to DoT with complete address of the WFH location including static IP address for availing the facility should be continued. The requirement of agreement including the bank guarantee for availing the WHF facility may be removed.

In case of violation of terms and conditions of WFH facility by any agent/employee or by the OSP, the OSP may be subjected to a penalty of Rs 10 lakh per WFH terminal subject to an upper limit of Rs. 1 crore. In case the penalty for violation of Rs. 1 crore is reached, the OSP may be declared as barred for using the WFH facility.

DOT's view :

Bank Guarantee acts as a deterrent to discourage the OSPs from indulging in violations. If penalty is imposed in case of any violation, as recommended by TRAI, and the OSP fails to comply with the penalty order, the existence of bank guarantee will enable the penalty amount to be recovered.

However, instead of multiple Bank Guarantees, DOT suggests that one common Bank Guarantee be taken from an OSP company, on the following graded basis:

- <100 seats Rs. 10 lakhs
- 100-1000 seats Rs. 50 lakhs
- > 1000 seats Rs. 1 Crore.

Response of TRAI

The Authority has mentioned in the para 2.86 and 2.126 of its recommendations that the provisions of OSP registration should not act

as a barrier for the companies in starting a BPO business. Taking Bank Guarantee is felt as one of such barriers. In existing provisions of OSP registration, submission of Bank Guarantee is a pre-requisite for sharing of infrastructure and for availing work from home facilities. At global level, the BPO industry is a very competitive market. Many other countries are coming up to grab a larger share of this market. It is essentially desirable to keep the entry level barriers low to attract the BPO business in the country. IT enabled services are penetrating into almost all of the economic verticals, therefore, the liberal approach will lead to greater economic growth.

The Authority is of the view that OSPs should be permitted to decide about the sharing of its own infrastructure and availing Work from Home facilities, as and when desired, without submission of any Bank Guarantee. However, provision of imposing penalties, in case of violations, has already been recommended which will act as a deterrent in itself. Further, in the situation of non-submission of imposed penalty, the option of cancellation of OSP registration, disconnection of its telecom resources and invoking the relevant provisions of the Indian Telegraph Act will also be available.

Therefore, the Authority reiterates its recommendations.

3. Issue related to CCSP/HCCSP:

Para 3.21 of Authority's Recommendations dated 21.10.2019:

The Authority recommends that :

(i) The CCSPs/HCCSPs who provide only the platform as service including a combination of the components of EPABX, IVR, call handling/administration, call recording, contact centre data analytics, customer relationship management etc. for contact centres, should be required to get registered with DoT. These CCSPs/HCCSPs should be Indian Company, having their data centre(s) in India for providing the contact centre platform to OSPs. The CCSP/HCCSP should ensure that there is logical partitioning between the components of the platform

handling telecom resources of different OSPs. A complete log and record of the logical partitioning including the CDR should be maintained by the CCSP/HCCSP. These records should be maintained at least for a period of one year. The CCSP/HCCSP should provide these records to DoT or security agencies designated by DoT, as and when required. Further, physical access to their data centre(s) should also be provided to DoT/ Security agencies as and when required. For the purpose of registration of CCSP/HCCSP, DoT should create a category similar to OSP registration and complete the registration activity online on the existing web portal. The document requirement should be similar to OSP registration. The CCSP/HCCSP should provide the location wise list of network elements. However, no network diagram should be required. The registration process should be completed in a period of one month similar to OSP registration. There should not be mixing of data and voice path and the CCSP/HCCSP should not infringe upon the scope of authorised TSPs. For any violation to these conditions, a penalty of Rs. 50 lakh per violation may be imposed on the CCSP/HCCSP. The CCSP/HCCSP should furnish the list of OSPs, served by them, to DoT annually.

(ii) Those CCSPs/HCCSPs who provide the platform as service as mentioned in para (i) above and are also involved in reselling the telecom resources to OSPs, are required to obtain UL-VNO licence, as applicable, from DoT.

(iii) Any Licensed TSP / Unified Licensee having suitable Authorisation should be allowed to function as CCSP/HCCSP.

(iv) The existing CCSPs/HCCSPs may be provided a period of 3 months for getting registration/ suitable license from DoT.

DOT's view :

DOT's view on the registration is given below for consideration of TRAI.

The CCSP/HCCSP performs the action of collection, carriage and delivery of the message. Hence, there is a requirement for the CCSP/HCCSP to hold licence under the Indian Telegraph Act, 1885. DOT is of the view that all CCSPs/ HCCSPs should be mandated to have UL/ UL VNO Licence with suitable authorisation(s), as applicable. The suitable authorisations under UL/ UL VNO would depend on the services that the CCSP/HCCSP is offering/reselling to the OSPs e.g. Access authorisation (for switching), ISP authorisation (for internet), NLD authorisation, ILD authorisation etc.

Further, TRAI is requested to give discreet definition of CCSP/HCCSP which may be included in the UL/ UL-VNO License.

Response of TRAI

The Authority is of the view that in case of CCSP/HCCSP providing only platform as a service, the telecom resources are to be obtained by the individual OSP or its customer from the licensed TSPs. Therefore, in this case, the telecom resource is not owned by the CCSP/HCCSSP. Further, as explained in para 2.103 of the recommendations, there is no switching involved at CCSP / HCCSP. Therefore, the concerns of DoT that collection, carriage and delivery of message is performed by CCSP/HCCSP, does not appear to be correct. The platform provided by the CCSP/HCCSP facilitates the OSP for receiving the calls through the telecom resources owned by the OSP.

The Authority is of the view to encourage the provision of sharable infrastructure and use of latest cloud based technologies. Therefore, requirement of such CCSP/HCCSP for having UL/UL-VNO license is not agreed to and the recommendations earlier made are reiterated.

The Authority has already recommended vide para 3.21(ii) that those CCSPs/HCCSPs who provide the platform as service as mentioned in para 3.21 (i) and are also involved in reselling the telecom resources to OSPs, are required to obtain UL-VNO licence, as applicable, from DoT.

With reference to request DoT for providing discreet definition for CCSP/HCCSP, it may be noted that at para 2.98 of the recommendations, definition of CCSP/HCCSP has already been provided. The same is reproduced below:

“There are Service Providers who have set up Data Centers/ Facilities for providing the infrastructure required for setting up of a Call Centre/ Contact Centre instantly. The service providers who offer these services directly from their Data Centres are termed as Contact Centre Service Providers (CCSP) and those service providers who have hosted their services over cloud and are providing these services using internet are termed as Hosted Contact Centre Service Provider (HCCSP).”

4. Issue related to Network Diagram:

Para 3.10 of Authority’s Recommendations dated 21.10.2019:

The proposed network diagram should have following details:

- (a) *The proposed network diagram should have following details:*
 - (i) *Name of Service provider proposed to provide telecom resources*
 - (ii) *Bandwidth and the type of connectivity (PRI, Internet, VoIP, MPLS, IPLC, etc.)*
 - (iii) *Details of EPABX and its configuration (standalone/ distributed architecture/ cloud EPABX, location of EPABX).*
 - (iv) *Details of infrastructure shared if any, including CUG facility.*
 - (v) *Location of Data Centre of the client of OSP for whom the services are being provided by OSP*
- (b) *The OSP may choose any technical solution available for the connectivity from the authorised TSPs, provided that the terms and conditions of registration are met and there is no infringement on the scope of authorised TSPs. The network diagram should be self-attested in case of domestic OSP and counter signed by the TSP in case of International OSP.*

(c) *Captive Contact Centre should furnish self-attested network diagram at the time of intimation and any change in the network diagram may be intimated to DoT through the web portal immediately.*

DOT's view :

DOT is of the view that the network diagram should be counter signed by TSP for domestic OSPs also so that the TSP can do first level of scrutiny. Since the OSPs are customers of the TSPs, no difficulty is foreseen for the OSPs to get counter-sign of the TSP on the network diagrams.

As per TRAI, the TSPs and OSPs are equally responsible for bonafide use of telecom resources provided by the TSPs to the OSPs. However, the OSPs may not be aware of the intricacies of infringements, if any. Hence, it will be in the interest of the OSPs that they get their network diagram counter signed by the TSPs so that they do not even inadvertently violate the conditions regarding bonafide use. Such a provision will also help in improving the ease of doing business for the OSPs.

Response of TRAI

As explained in the para 2.42 of the recommendations, even if the TSP does not counter-sign the network diagram in case of domestic OSP, it is responsible for bona-fide use of telecom resources provided by them to OSP in compliance to the License condition. Therefore, there appears to be no value addition in getting the network diagram counter-signed by the TSP at the time of OSP registration. On the other hand it may add to delay to the registration process. The Authority is of the opinion that TSP as well as Department of Telecommunications, both have the right to check the usage of telecom resources and take action against the OSP, in case of any violation.

Therefore, the Authority reiterates its recommendations. However, DoT may ask the applicants of domestic OSP centre to provide a copy of the network diagram to the concerned TSP(s), before applying for registration with DoT.

5. Issue related to EPABX for International OSPs:

Para 3.26 of Authority's Recommendations dated 21.10.2019:

EPABX at foreign location in case of international OSP may be allowed subject to the condition that OSP provides remote access of the EPABX and authenticated copy of CDR, System logs and message details as and when required.

DOT's view :

OSP shall maintain a copy of CDR, System logs and message details etc. and the data shall be stored in its centre in India. Data shall be updated on a near real time basis. However, MHA clearance would also be obtained on the above by DOT.

Response of TRAI

The DoT's view on the referred recommendation is related to enforcement of Security conditions. In this regard, attention is brought to the recommendations made by TRAI at para 3.16, where the Authority has mentioned that Specific technical provisions for addressing the security and monitoring concerns related to OSPs may be finalized by DoT in consultation with the TEC.

Accordingly, the Authority agrees with the views of DoT that OSP shall maintain a copy of CDR, System logs and message details etc. and the data shall be stored in its centre in India.

6. Issue related to Penalty provisions:

The Penalty provisions in Para 3.18, 3.19, 3.21, 3.22, 3.24 of Authority's Recommendations dated 21.10.2019 and para 3.28 are as below:

Para 3.18:

The technical terms and conditions of infrastructure sharing between domestic and international OSP under option 1 and 2 mentioned in

Clause 4, Chapter IV of existing terms and conditions for OSP registration may be continued. However, with regard to general conditions of the infrastructure sharing, the provisions related to signing of agreement, bank guarantee and certificate of manufacturer for logical partitioning capability should be removed. The sharing of infrastructure provisions therefore would become co-terminus with the period of registration. Provisions should be made in the portal to fill up the sharing requirement details at the time of applying for registration or at a later stage.

Para 3.19

In case of violation of infrastructure sharing conditions, the OSP registration should be cancelled and the OSP company/LLP shall be debarred from taking registration for 3 years. In addition, a financial penalty of Rs. 50 Lakh in case of option 1 and Rs. 1 Crore in case of option 2 may be imposed. In case, the OSP fails to comply to the penalty order, penal action as provided in the Indian Telegraph Act may be initiated in addition to cancellation of registration. These provisions may be incorporated in the registration certificate issued to the OSP.

Provisions in para 3.21

. . . . For any violation to these conditions, a penalty of Rs. 50 lakh per violation may be imposed on the CCSP/HCCSP.

Provisions in para 3.22

..... Any unauthorised connectivity of data and voice path may be dealt with by cancellation of the registration of the OSP.

Provisions in para 3.24

.....In case of violation of terms and conditions of WFH facility by any agent/employee or by the OSP, the OSP may be subjected to a penalty of Rs 10 lakh per WFH terminal subject to an upper limit of Rs. 1 crore. In case the penalty for violation of Rs. 1 crore is reached, the OSP may be declared as barred for using the WFH facility.

Para 3.28

The penalty provisions for violations related to sharing of infrastructure between domestic and international OSPs, interconnection of data and voice path in domestic operations and WFH have already been prescribed in the relevant paras above. Further, the Authority

recommends that, for violation of other terms and conditions of registration, penal provisions as per existing terms and conditions for registration of OSP may be continued. The punitive action should be in accordance with the provisions of Indian Telegraph Act.

In case of violation by Captive Contact Centre, the telecom resources of the CCC may be disconnected and the concerned company/LLP may be debarred from having captive contact centre for three years. Further, DoT may take any punitive action in accordance with Indian Telegraph Act.

DOT's view :

DOT is of the view that the penalties proposed in recommendation Nos. 3.18, 3.19 & 3.24 should be kept as upper limits (i.e. upto 10 lakh, upto 50 lakh & upto 1 crore) so that the penalty can be imposed commensurate with the nature of violation. Financial penalty for violation against recommendation Nos. 3.22 is required to be defined.

With regard to Recommendation 3.28, DOT notes that in the existing Terms & Conditions of OSP registration, there is no provision of penalty on OSPs for non-compliances such as Non submission of TSP approved network diagram, not updating the change of address/name of company/network diagram details, non-submission of annual report etc.

Cancelling the OSP registration for such non-compliances may not be appropriate. DOT proposes to impose penalty on the basis of the severity of the violation and provide for penalties accordingly.

Response of TRAI

The Authority is of the view that having discretion in application of penalty makes imposition of penalty a complex process, and more likely to be challenged. Therefore, the Authority recommended for fixed financial penalty for specific violations.

However, based on the submissions made by DoT, the Authority agrees with the views of DoT that the penalty should be imposed commensurate with the nature of violation and therefore, DoT may keep the recommended penalty amount as the upper limit (the maximum amount of penalty which can be imposed) for violation of various terms and conditions of OSP registration.

7. Issue related to Work from Home:

Para 3.24 of Authority's Recommendations dated 21.10.2019:

The Work-From-Home (WFH) is an extended agent position of the OSP centre. The requirement of PPVPN for WFH may be removed and the WFH may be connected to OSP centre using any commercially available VPN. However, the provision of prior intimation to DoT with complete address of the WFH location including static IP address for availing the facility should be continued. The requirement of agreement including the bank guarantee for availing the WHF facility may be removed.

In case of violation of terms and conditions of WFH facility by any agent/employee or by the OSP, the OSP may be subjected to a penalty of Rs 10 lakh per WFH terminal subject to an upper limit of Rs. 1 crore. In case the penalty for violation of Rs. 1 crore is reached, the OSP may be declared as barred for using the WFH facility.

DOT's view :

DoT is of the view that Commercially available VPN may not be allowed as there are many APP based VPNs available, hosted outside India, wherein tracing may not be possible.

Hence, the OSPs may be permitted to use authorized Telecom Service Providers Provisioned VPN (PPVPN). Alternately, OSPs may use any Secured VPN/Secured Connectivity configured using static IP/ Dynamic IP (from the pool of IP assigned for WFH) by OSPs themselves for interconnection between OSP Centre and WFH agent. However, the Server or Gateway infrastructure

for the Secured VPN/ Secured connectivity should be located within India, at any location of the OSP or with CCSP/HCCSP infrastructure located in India. The traffic from the WFH agents to the Server or Gateway infrastructure shall in no way go beyond the country.

The provision related to agreement may be incorporated in the T&C of registration.

The point related to one common BG is already been explained at S. No. 2 above.

Response of TRAI

As per existing OSP guidelines, in respect of Work From Home(WFH) facility for OSP, the agent at home is treated as Extended Agent Position of the call centre and interconnection is permitted through authorized service providers provisioned (secured) VPN (PPVPN) which have pre-defined locations i.e. home of the agent and the OSP centre as VPN end user sites. Over and above PPVPN, the OSP is allowed to use their own security mechanism like Authentication, Authorization and Accounting at the same call centre from which the connectivity has been extended to the home agent. A security deposit of Rs. 1 Crore for each registered location of OSP centre from which WFH is extended is required. Permission for WFH is valid for a period of 3 years and can be extended for a further period of maximum 3 years after expiry.

As explained in para 2.125 of the recommendations, the WFH facility is to provide flexibility to the OSPs for extending the agent position. In case the PPVPN requirements is removed and the agents are allowed to connect the OSP centre using VPN over internet, this will make the facility flexible. The TSP provided PPVPN lacks flexibility. Therefore, the Authority recommended removing PPVPN and using any VPN which is commercially available. The comments of DoT is related to traceability of the VPN in case it is hosted outside India.

Being a security concern, the Authority agrees with the proposal of DoT in respect of configuring secured VPN connectivity by OSPs. DoT may take suitable decision as deemed appropriate.

In respect of requirement of an agreement between OSP and DoT, DoT has not given any reason for keeping the requirement of an agreement for WFH facility. Therefore, as already explained in the recommendations dated 21.10.2019, the Authority is of the view that the requirement of agreement should not be continued and the Authority reiterates its recommendations.

With regard to DoT's view on the Bank Guarantee for availing WFH facility, as mentioned in reference to issue no. 2 above, the Authority reiterates its recommendations.

8. Issue related to Interconnection of Data and Voice path:

Para 3.22 of Authority's Recommendations dated 21.10.2019:

The interconnection of data and voice path is not allowed. However, remote login for equipment maintenance by the OEM or its agent deputed for maintenance may be allowed. The complete details of the incident including the time duration for which the remote login was resorted should be recorded and shared with DoT immediately. Any unauthorised connectivity of data and voice path may be dealt with by cancellation of the registration of the OSP.

DOT's view :

The word 'data and voice' in the above TRAI recommendation seems erroneous and it seems that TRAI meant it to be 'internet and voice'. Collection of voice traffic at a location and further distribution to other OSP centers of the same Company/LLP over Data network (i.e NPLC/MPLS) has already been allowed as special dispensation to the OSPs. Further, TRAI in Para 2.9 of its

recommendations has also indicated about the special dispensation to this effect to the OSPs.

TRAI may clarify.

Response of TRAI

As mentioned in Para 2.108 of the recommendations, a separation is required to be maintained between PSTN lines and leased circuits to ensure that there is no call flow between them. The domestic OSPs may require to have internet leased lines and NLD leased lines / VPN circuits terminated on the same network where PSTN is terminated. To avoid the call flow between Public Network and Leased Line, the logical partitioning of EPABX is mandated.

The Para 3.22 of recommendations re-emphasizes this aspects and further states that even in the case of remote login of the EPABX equipment for maintenance purposes, it should be ensured that there is no call flow between public network and leased line through that EPABX.

In para 2.9 of the recommendations, it has been mentioned that the special dispensation given to OSPs to transport the incoming PSTN calls from one location to the other with load sharing to enable them to provide the services in an efficient manner. The purpose of this para is to recall the special dispensation given to OSPs for carrying the aggregated switched voice traffic over leased line to their call centre. This is mentioned while discussing the 'Definition and Registration of Other Service Providers' in the recommendation paper. Whereas, Para 3.22 of the recommendations deals with the prohibition of call flow between public network (PSTN / PLMN) and private network (Leased line etc.), if terminated on the same EPABX. Therefore, there appears to be no confusion about what has been said in para 2.9 and Para 3.22.

Government of India
Ministry of Communications
Department of Telecommunications
Sanchar Bhawan, 20 Ashok Road, New Delhi

No. 18-5/2015-CS-I (Pt.)


Dated: 26th Sept. 2020

To
The Secretary
Telecom Regulatory Authority of India
New Delhi

Subject: Recommendations on the Review of Terms and Conditions for registration of OSPs.

The recommendations on Review of Terms and Conditions for registration of Other Service Providers (OSP) was submitted by TRAI on 21.10.2019. The recommendations have been examined by DoT. The issues mentioned in the Annexure are referred back to TRAI under Section-11 of the TRAI Act, 1997.

TRAI is requested to send its reconsidered view at the earliest.


26/9
(Sharad Trivedi)
DDG (Carrier Services)

Enclosed: Annexure

List of issues on which TRAI reconsidered view is required

{Recommendations on Review of Terms and Conditions for registration of Other Service Providers (OSPs) dated 21.10.2019}

1. TRAI recommendations related to Categorisation of OSP based on Voice or Data:

TRAI Reco 3.5: The Authority, recommends that for the purpose of registration, the OSPs are categorised in following categories:

a) Voice-based OSP

An OSP providing voice-based services (using voice call or voice-based application).

b) Data/Internet based OSP (without voice component)

An OSP providing services which are purely based on data/internet and no voice connectivity is involved.

The above categorization of OSP will be applicable to both Domestic and International OSP.

DOT's view on Categorisation of OSP based on Voice or Data:

In the present scenario where both Voice and Data are transported as data packets over IP networks, the categorisation of OSPs on the basis of voice and Data/Internet may not be relevant. It may lead to misuse by OSPs based on Data/Internet for transiting voice calls. Hence, DOT is of the view that categorisation of OSPs on the basis of voice and data is not required and both type of OSPs should be required to take registration.

TRAI has recommended that the Data/Internet based OSPs (without voice component) should be registered in the form of intimation without providing details of how the cases of intimation will be scrutinised. DOT is of the view that these OSPs should also be brought under registration and scrutiny process as applicable for Voice based OSPs since the online process is simple, fast and easy to administer. The registration process will allow good record keeping and proper scrutiny of the information of all OSPs including Data/Internet based OSPs (without voice component).

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TRAI Reco 3.18: The technical terms and conditions of infrastructure sharing between domestic and international OSP under option 1 and 2 mentioned in Clause 4, Chapter IV of existing terms and conditions for OSP registration may be continued. However, with regard to general conditions of the infrastructure sharing, the provisions related to signing of agreement, bank guarantee and certificate of manufacturer for logical partitioning capability should be removed. The sharing of infrastructure provisions therefore would become co-

terminus with the period of registration. Provisions should be made in the portal to fill up the sharing requirement details at the time of applying for registration or at a later stage.

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DOT's view on Bank Guarantee:

Bank Guarantee acts as a deterrent to discourage the OSPs from indulging in violations. If penalty is imposed in case of any violation, as recommended by TRAI, and the OSP fails to comply with the penalty order, the existence of bank guarantee will enable the penalty amount to be recovered.

However, instead of multiple Bank Guarantees, DOT suggests that one common Bank Guarantee be taken from an OSP company, on the following graded basis:

- <100 seats Rs. 10 lakhs
- 100-1000 seats Rs. 50 lakhs
- > 1000 seats Rs. 1 Crore.

3. TRAI recommendations related to CCSP/ HCCSP:

TRAI Reco 3.21: The Authority recommends that:

- (i) The CCSPs/HCCSPs who provide only the platform as service including a combination of the components of EPABX, IVR, call handling/administration, call recording, contact centre



data analytics, customer relationship management etc. for contact centres, should be required to get registered with DoT. *These CCSPs/HCCSPs should be Indian Company, having their data centre(s) in India for providing the contact centre platform to OSPs.* The CCSP/HCCSP should ensure that there is logical partitioning between the components of the platform handling telecom resources of different OSPs. A complete log and record of the logical partitioning including the CDR should be maintained by the CCSP/HCCSP. These records should be maintained at least for a period of one year. The CCSP/HCCSP should provide these records to DoT or security agencies designated by DoT, as and when required. Further, physical access to their data centre(s) should also be provided to DoT/ Security agencies as and when required. *For the purpose of registration of CCSP/HCCSP, DoT should create a category similar to OSP registration and complete the registration activity online on the existing web portal.* The document requirement should be similar to OSP registration. The CCSP/HCCSP should provide the location wise list of network elements. However, no network diagram should be required. The registration process should be completed in a period of one month similar to OSP registration. There should not be mixing of data and voice path and the CCSP/HCCSP should not infringe upon the scope of authorised TSPs. For any violation to these conditions, a penalty of Rs. 50 lakh per violation may be imposed on the CCSP/HCCSP. The CCSP/HCCSP should furnish the list of OSPs, served by them, to DoT annually.

(ii) Those CCSPs/HCCSPs who provide the platform as service as mentioned in para (i) above and are also involved in reselling the telecom resources to OSPs, are required to obtain UL-VNO licence, as applicable, from DoT.

DOT's view on CCSP/ HCCSP:

DOT's view on the registration is given below for consideration of TRAI.

The CCSP/HCCSP performs the action of collection, carriage and delivery of the message. Hence, there is a requirement for the CCSP/HCCSP to hold licence under the Indian Telegraph Act, 1885. DOT is of the view that all CCSPs/ HCCSPs should be mandated to have UL/ UL VNO Licence with suitable authorisation(s), as applicable. The suitable authorisations under UL/ UL VNO would depend on the services that the CCSP/HCCSP is offering/reselling to the OSPs e.g. Access authorisation (for switching), ISP authorisation (for internet), NLD authorisation, ILD authorisation etc.

Further, TRAI is requested to give discreet definition of CCSP/HCCSP which may be included in the UL/ UL-VNO Licence.

4. TRAI recommendations related to Network Diagram:

TRAI Reco 3.10: The proposed network diagram should have following details:

(a) The proposed network diagram should have following details:

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- (i) Name of Service provider proposed to provide telecom resources
- (ii) Bandwidth and the type of connectivity (PRI, Internet, VoIP, MPLS, IPLC, etc.)
- (iii) Details of EPABX and its configuration (standalone/ distributed architecture/ cloud EPABX, location of EPABX).
- (iv) Details of infrastructure shared if any, including CUG facility.
- (v) Location of Data Centre of the client of OSP for whom the services are being provided by OSP

(b) The OSP may choose any technical solution available for the connectivity from the authorised TSPs, provided that the terms and conditions of registration are met and there is no infringement on the scope of authorised TSPs. The network diagram should be self-attested in case of domestic OSP and counter signed by the TSP in case of International OSP.

(c) Captive Contact Centre should furnish self-attested network diagram at the time of intimation and any change in the network diagram may be intimated to DoT through the web portal immediately.

DOT's view on Network Diagram:

DOT is of the view that the network diagram should be counter signed by TSP for domestic OSPs also so that the TSP can do first level of scrutiny. Since the OSPs are customers of the TSPs, no difficulty is foreseen for the OSPs to get counter-sign of the TSP on the network diagrams.

As per TRAI, the TSPs and OSPs are equally responsible for bonafide use of telecom resources provided by the TSPs to the OSPs. However, the OSPs may not be aware of the intricacies of infringements, if any. Hence, it will be in the interest of the OSPs that they get their network diagram counter signed by the TSPs so that they do not even inadvertently violate the conditions regarding bonafide use. Such a provision will also help in improving the ease of doing business for the OSPs.

5. TRAI recommendations related to Foreign PABX for International OSPs:

TRAI Reco 3.26: EPABX at foreign location in case of international OSP may be allowed subject to the condition that OSP provides remote access of the EPABX and authenticated copy of CDR, System logs and message details as and when required.

DOT's view on Foreign PABX for International OSPs:

OSP shall maintain a copy of CDR, System logs and message details etc. and the data shall be stored in its centre in India. Data shall be updated on a near real time basis. However, MHA clearance would also be obtained on the above by DOT.

6. TRAI recommendations related to Penalty:

The penalty has been specified by TRAI in its recommendations

- **No. 3.18** (for violation of Infrastructure sharing) - financial penalty of Rs. 50 Lakh in case of option 1 and Rs. 1Crore in case of option 2 may be imposed.
- **No. 3.21** (for violation by CCSP/HCCSP) - penalty of Rs. 50 lakh per violation may be imposed on the CCSP/HCCSP.
- **No. 3.22** (for unauthorised connectivity of data (internet) and voice path) – Only cancellation of registration stated.
- **No. 3.24** (for violation of WFH) - Rs 10 lakh per WFH terminal subject to an upper limit of Rs. 1 crore.

TRAI Reco 3.28: The penalty provisions for violations related to sharing of infrastructure between domestic and international OSPs, interconnection of data and voice path in domestic operations and WFH have already been prescribed in the relevant paras above. Further, the Authority recommends that, for violation of other terms and conditions of registration, penal provisions as per existing terms and conditions for registration of OSP may be continued. The punitive action should be in accordance with the provisions of Indian Telegraph Act.

In case of violation by Captive Contact Centre, the telecom resources of the CCC may be disconnected and the concerned company/LLP may be debarred from having captive contact centre for three years. Further, DoT may take any punitive action in accordance with Indian Telegraph Act.

DOT's view on Penalty:

DOT is of the view that the penalties proposed in recommendation Nos. 3.18, 3.19 & 3.24 should be kept as upper limits (i.e. upto 10 lakh, upto 50 lakh & upto 1 crore) so that the penalty can be imposed commensurate with the nature of violation. Financial penalty for violation against recommendation Nos. 3.22 is required to be defined.

With regard to Recommendation 3.28, DOT notes that in the existing Terms & Conditions of OSP registration, there is no provision of penalty on OSPs for non-compliances such as Non submission of TSP approved network diagram, not updating the change of address/name of company/network diagram details, non-submission of annual report etc.

Cancelling the OSP registration for such non-compliances may not be appropriate. DOT proposes to impose penalty on the basis of the severity of the violation and provide for penalties accordingly.

7. TRAI recommendations related to Work from Home:

TRAI Reco 3.24: The Work-From-Home (WFH) is an extended agent position of the OSP centre. The requirement of PPVPN for WFH may be removed and the WFH may be connected

to OSP centre using any commercially available VPN. However, the provision of prior intimation to DoT with complete address of the WFH location including static IP address for availing the facility should be continued. The requirement of agreement including the bank guarantee for availing the WFH facility may be removed.

In case of violation of terms and conditions of WFH facility by any agent/employee or by the OSP, the OSP may be subjected to a penalty of Rs 10 lakh per WFH terminal subject to an upper limit of Rs. 1 crore. In case the penalty for violation of Rs. 1 crore is reached, the OSP may be declared as barred for using the WFH facility.

DOT's view on Work from Home:

DOT is of the view that Commercially available VPN may not be allowed as there are many APP based VPNs available, hosted outside India, wherein tracing may not be possible.

Hence, the OSPs may be permitted to use authorized Telecom Service Providers Provisioned VPN (PPVPN). Alternately, OSPs may use any Secured VPN/ Secured Connectivity configured using Static IP/ Dynamic IP (from the pool of IP assigned for WFH) by OSPs themselves for interconnection between OSP Centre and WFH agent. However, the Server or Gateway infrastructure for the Secured VPN/ Secured Connectivity should be located within India, at any location of the OSP or with CCSP/HCCSP infrastructure located in India. The traffic from the WFH agents to the Server or Gateway infrastructure shall in no way go beyond the country.

The provisions related to agreement may be incorporated in **the T&C of registration.**

The point related to one common BG is already been explained at S. No. 2 above.

8. TRAI recommendations related to interconnection of Data and Voice path:

TRAI Reco 3.22: The interconnection of data and voice path is not allowed. ...

DOT's view on interconnection of Data and Voice path:

The word 'data and voice' in the above TRAI recommendation seems erroneous and it seems that TRAI meant it to be 'Internet and voice'. Collection of voice traffic at a location and further distributions to other OSP centres of the same Company/LLP over Data network (i.e. NPLC/ MPLS) has already been allowed as special dispensation to the OSPs. Further, TRAI in para 2.9 of its recommendations has also indicated about the special dispensation to this effect to the OSPs.

TRAI may clarify.

